



International
Labour
Organization

► Report III (Part A)

► Application of International Labour Standards 2023

Report of the Committee
of Experts on the Application
of Conventions and Recommendations

International Labour Conference
111th Session, 2023



Report III (Part A)

► **Report of the Committee of Experts
on the Application of Conventions
and Recommendations**

(articles 19, 22 and 35 of the Constitution)

Third item on the agenda:
Information and reports on the application
of Conventions and Recommendations

General Report and observations
concerning particular countries

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The **Committee of Experts on the Application of Conventions and Recommendations** is an independent body composed of legal experts charged with examining the application of ILO Conventions and Recommendations by ILO Member States. The annual report of the Committee of Experts covers numerous matters related to the application of ILO standards. The structure of the report, as modified in 2003, is divided into the following parts:

- (a) The **Reader's note** provides indications on the Committee of Experts and the Committee on the Application of Standards of the International Labour Conference (their mandate, functioning and the institutional context in which they operate) (**Part A, pages 35–39**).
- (b) **Part I: the General Report** describes the manner in which the Committee of Experts undertakes its work and the extent to which Member States have fulfilled their constitutional obligations in relation to international labour standards, and it draws the attention to issues of general interest arising out of the Committee's work (**Part A, pages 41–91**).
- (c) **Part II: Observations concerning particular countries** cover the sending of reports, the application of ratified Conventions (see section I), and the obligation to submit instruments to the competent authorities (see section II) (**Part A, pages 93–981**).
- (d) **Part III: General Survey**, in which the Committee of Experts examines the state of the legislation and practice regarding a specific area covered by a given number of Conventions and Recommendations. This examination covers all Member States regardless of whether or not they have ratified the given Conventions. The General Survey is published as a separate volume (Report III(Part B)) and this year it concerns the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Workers with Family Responsibilities Convention, 1981 (No. 156), the Maternity Protection Convention, 2000 (No. 183), the Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111), the Workers with Family Responsibilities Recommendation, 1981 (No. 165) and the Maternity Protection Recommendation, 2000 (No. 191) (**Part B**).

The report of the Committee of Experts is also available at: www.ilo.org/normes.

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- ★ Convention revised in whole or in part by a subsequent Convention or Protocol.
- Convention no longer open to ratification as a result of the entry into force of a revising Convention.
- ◆ Convention or Protocol not in force.
- Convention withdrawn.
- Convention abrogated.

1 Freedom of association, collective bargaining, and industrial relations

- C011 Right of Association (Agriculture) Convention, 1921 (No. 11)
- C084 Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)
- C087 **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)**
- C098 **Right to Organise and Collective Bargaining Convention, 1949 (No. 98)**
- C135 Workers' Representatives Convention, 1971 (No. 135)
- C141 Rural Workers' Organisations Convention, 1975 (No. 141)
- C151 Labour Relations (Public Service) Convention, 1978 (No. 151)
- C154 Collective Bargaining Convention, 1981 (No. 154)

2 Forced labour

- C029 **Forced Labour Convention, 1930 (No. 29)**
- C105 **Abolition of Forced Labour Convention, 1957 (No. 105)**
- P029 **Protocol of 2014 to the Forced Labour Convention, 1930**

3 Elimination of child labour and protection of children and young persons

- ★ C005 Minimum Age (Industry) Convention, 1919 (No. 5)
- ★ C006 Night Work of Young Persons (Industry) Convention, 1919 (No. 6)
- ★ C010 Minimum Age (Agriculture) Convention, 1921 (No. 10)
- C015 *Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15)*
- C033 Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33)
- ★ C059 Minimum Age (Industry) Convention (Revised), 1937 (No. 59)
- C060 *Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 (No. 60)*
- C077 Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)
- C078 Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78)
- C079 Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79)
- C090 Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90)
- ★ C123 Minimum Age (Underground Work) Convention, 1965 (No. 123)
- C124 Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124)
- C138 **Minimum Age Convention, 1973 (No. 138)**
- C182 **Worst Forms of Child Labour Convention, 1999 (No. 182)**

4 Equality of opportunity and treatment

- C100 **Equal Remuneration Convention, 1951 (No. 100)**
- C111 **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)**
- C156 Workers with Family Responsibilities Convention, 1981 (No. 156)
- ◆ C190 **Violence and Harassment Convention, 2019 (No. 190)**

5 Tripartite consultation

- C144 *Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)*

6 Labour administration and inspection		
●	C063	Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63)
★	C081	<i>Labour Inspection Convention, 1947 (No. 81)</i>
	C085	Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85)
	C129	<i>Labour Inspection (Agriculture) Convention, 1969 (No. 129)</i>
	C150	Labour Administration Convention, 1978 (No. 150)
	C160	Labour Statistics Convention, 1985 (No. 160)
	P081	Protocol of 1995 to the Labour Inspection Convention, 1947
7 Employment policy and promotion		
	C002	Unemployment Convention, 1919 (No. 2)
■	C034	<i>Fee-Charging Employment Agencies Convention, 1933 (No. 34)</i>
	C088	Employment Service Convention, 1948 (No. 88)
●	C096	Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96)
	C122	<i>Employment Policy Convention, 1964 (No. 122)</i>
	C159	Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)
	C181	Private Employment Agencies Convention, 1997 (No. 181)
8 Vocational guidance and training		
	C140	Paid Educational Leave Convention, 1974 (No. 140)
	C142	Human Resources Development Convention, 1975 (No. 142)
9 Employment security		
	C158	Termination of Employment Convention, 1982 (No. 158)
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	C095	Protection of Wages Convention, 1949 (No. 95)
	C099	Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)
	C131	Minimum Wage Fixing Convention, 1970 (No. 131)
	C173	Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173)
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	C020	Night Work (Bakeries) Convention, 1925 (No. 20)
	C030	Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)
■	C031	<i>Hours of Work (Coal Mines) Convention, 1931 (No. 31)</i>
□	C041	<i>Night Work (Women) Convention (Revised), 1934 (No. 41)</i>
	C043	Sheet-Glass Works Convention, 1934 (No. 43)
■	C046	<i>Hours of Work (Coal Mines) Convention (Revised), 1935 (No. 46)</i>
	C047	Forty-Hour Week Convention, 1935 (No. 47)
	C049	Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935 (No. 49)
■	C051	<i>Reduction of Hours of Work (Public Works) Convention, 1936 (No. 51)</i>
●	C052	Holidays with Pay Convention, 1936 (No. 52)
■	C061	<i>Reduction of Hours of Work (Textiles) Convention, 1937 (No. 61)</i>
□	C067	<i>Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67)</i>
★	C089	Night Work (Women) Convention (Revised), 1948 (No. 89)
★	C101	Holidays with Pay (Agriculture) Convention, 1952 (No. 101)
	C106	Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)
	C132	Holidays with Pay Convention (Revised), 1970 (No. 132)
	C153	Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153)
	C171	Night Work Convention, 1990 (No. 171)
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	P089	Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948

12 Occupational safety and health		
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	C045	Underground Work (Women) Convention, 1935 (No. 45)
●	C062	Safety Provisions (Building) Convention, 1937 (No. 62)
	C115	Radiation Protection Convention, 1960 (No. 115)
	C119	Guarding of Machinery Convention, 1963 (No. 119)
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	C139	Occupational Cancer Convention, 1974 (No. 139)
	C148	Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)
★	C155	Occupational Safety and Health Convention, 1981 (No. 155)
	C161	Occupational Health Services Convention, 1985 (No. 161)
	C162	Asbestos Convention, 1986 (No. 162)
	C167	Safety and Health in Construction Convention, 1988 (No. 167)
	C170	Chemicals Convention, 1990 (No. 170)
	C174	Prevention of Major Industrial Accidents Convention, 1993 (No. 174)
	C176	Safety and Health in Mines Convention, 1995 (No. 176)
	C184	Safety and Health in Agriculture Convention, 2001 (No. 184)
	C187	Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)
	P155	Protocol of 2002 to the Occupational Safety and Health Convention, 1981
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★	C012	Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)
★	C017	Workmen's Compensation (Accidents) Convention, 1925 (No. 17)
★	C018	Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)
	C019	Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
★	C024	Sickness Insurance (Industry) Convention, 1927 (No. 24)
★	C025	Sickness Insurance (Agriculture) Convention, 1927 (No. 25)
●	C035	Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35)
●	C036	Old-Age Insurance (Agriculture) Convention, 1933 (No. 36)
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●	C039	Survivors' Insurance (Industry, etc.) Convention, 1933 (No. 39)
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★	C042	Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)
●	C044	Unemployment Provision Convention, 1934 (No. 44)
●	C048	Maintenance of Migrants' Pension Rights Convention, 1935 (No. 48)
★	C102	Social Security (Minimum Standards) Convention, 1952 (No. 102)
	C118	Equality of Treatment (Social Security) Convention, 1962 (No. 118)
	C121	Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121)
	C128	Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128)
	C130	Medical Care and Sickness Benefits Convention, 1969 (No. 130)
	C157	Maintenance of Social Security Rights Convention, 1982 (No. 157)
	C168	Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168)
14 Maternity protection		
★	C003	Maternity Protection Convention, 1919 (No. 3)
●	C103	Maternity Protection Convention (Revised), 1952 (No. 103)
	C183	Maternity Protection Convention, 2000 (No. 183)
15 Social policy		
★	C082	Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82)
	C094	Labour Clauses (Public Contracts) Convention, 1949 (No. 94)
	C117	Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)

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- C021 Inspection of Emigrants Convention, 1926 (No. 21)
- C066 Migration for Employment Convention, 1939 (No. 66)
- C097 Migration for Employment Convention (Revised), 1949 (No. 97)
- C143 Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

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- C007 Minimum Age (Sea) Convention, 1920 (No. 7)
- C008 Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)
- C009 Placing of Seamen Convention, 1920 (No. 9)
- C016 Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)
- ★ C022 Seamen's Articles of Agreement Convention, 1926 (No. 22)
- ★ C023 Repatriation of Seamen Convention, 1926 (No. 23)
- C053 Officers' Competency Certificates Convention, 1936 (No. 53)
- C054 Holidays with Pay (Sea) Convention, 1936 (No. 54)
- ★● C055 Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)
- ★● C056 Sickness Insurance (Sea) Convention, 1936 (No. 56)
- C057 Hours of Work and Manning (Sea) Convention, 1936 (No. 57)
- ★● C058 Minimum Age (Sea) Convention (Revised), 1936 (No. 58)
- ★● C068 Food and Catering (Ships' Crews) Convention, 1946 (No. 68)
- ★● C069 Certification of Ships' Cooks Convention, 1946 (No. 69)
- ★◆● C070 Social Security (Seafarers) Convention, 1946 (No. 70)
- C071 Seafarers' Pensions Convention, 1946 (No. 71)
- C072 Paid Vacations (Seafarers) Convention, 1946 (No. 72)
- C073 Medical Examination (Seafarers) Convention, 1946 (No. 73)
- C074 Certification of Able Seamen Convention, 1946 (No. 74)
- ★◆● C075 Accommodation of Crews Convention, 1946 (No. 75)
- C076 Wages, Hours of Work and Manning (Sea) Convention, 1946 (No. 76)
- C091 Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91)
- ★● C092 Accommodation of Crews Convention (Revised), 1949 (No. 92)
- C093 Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No. 93)
- C108 Seafarers' Identity Documents Convention, 1958 (No. 108)
- C109 Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109)
- ★● C133 Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)
- ★● C134 Prevention of Accidents (Seafarers) Convention, 1970 (No. 134)
- C145 Continuity of Employment (Seafarers) Convention, 1976 (No. 145)
- ★● C146 Seafarers' Annual Leave with Pay Convention, 1976 (No. 146)
- ★● C147 Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)
- ★● C163 Seafarers' Welfare Convention, 1987 (No. 163)
- ★● C164 Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)
- ★● C165 Social Security (Seafarers) Convention (Revised), 1987 (No. 165)
- ★● C166 Repatriation of Seafarers Convention (Revised), 1987 (No. 166)
- ★● C178 Labour Inspection (Seafarers) Convention, 1996 (No. 178)
- C179 Recruitment and Placement of Seafarers Convention, 1996 (No. 179)
- C180 Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180)
- C185 Seafarers' Identity Documents Convention (Revised), 2003, as amended (No. 185)
- MLC, 2006 Maritime Labour Convention, 2006 (MLC, 2006)
- ★● P147 Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976

18 Fishers		
★	C112	Minimum Age (Fishermen) Convention, 1959 (No. 112)
	C113	Medical Examination (Fishermen) Convention, 1959 (No. 113)
	C114	Fishermen's Articles of Agreement Convention, 1959 (No. 114)
	C125	Fishermen's Competency Certificates Convention, 1966 (No. 125)
	C126	Accommodation of Crews (Fishermen) Convention, 1966 (No. 126)
	C188	Work in Fishing Convention, 2007 (No. 188)
19 Dockworkers		
	C027	Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27)
■	C028	Protection against Accidents (Dockers) Convention, 1929 (No. 28)
●	C032	Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32)
	C137	Dock Work Convention, 1973 (No. 137)
	C152	Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)
20 Indigenous and tribal peoples		
□	C050	Recruiting of Indigenous Workers Convention, 1936 (No. 50)
□	C064	Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64)
□	C065	Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65)
□	C086	Contracts of Employment (Indigenous Workers) Convention, 1947 (No. 86)
□	C104	Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955 (No. 104)
●	C107	Indigenous and Tribal Populations Convention, 1957 (No. 107)
	C169	Indigenous and Tribal Peoples Convention, 1989 (No. 169)
21 Specific categories of workers		
	C083	Labour Standards (Non-Metropolitan Territories) Convention, 1947 (No. 83)
★	C110	Plantations Convention, 1958 (No. 110)
	C149	Nursing Personnel Convention, 1977 (No. 149)
	C172	Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172)
	C177	Home Work Convention, 1996 (No. 177)
	C189	Domestic Workers Convention, 2011 (No. 189)
	P110	Protocol of 1982 to the Plantations Convention, 1958
22 Final Articles Conventions		
	C080	Final Articles Revision Convention, 1946 (No. 80)
	C116	Final Articles Revision Convention, 1961 (No. 116)

► Reader's note

Overview of the ILO supervisory mechanisms

Since its creation in 1919, the mandate of the International Labour Organization (ILO) has included adopting international labour standards, promoting their ratification and application in its Member States, and the supervision of their application as a fundamental means of achieving its objectives. In order to monitor the progress of Member States in the application of international labour standards, the ILO has developed supervisory mechanisms which are unique at the international level.¹

Under article 19 of the ILO Constitution, a number of obligations arise for Member States upon the adoption of international labour standards, including the requirement to submit newly adopted standards to national competent authorities and the obligation to report periodically on the measures taken to give effect to the provisions of unratified Conventions and Recommendations.

A number of supervisory mechanisms exist whereby the Organization examines the standards-related obligations of Member States deriving from ratified Conventions. This supervision occurs both in the context of a regular procedure through periodic reports (article 22 of the ILO Constitution),² as well as through special procedures based on representations or complaints to the Governing Body made by ILO constituents (articles 24 and 26 of the Constitution, respectively). Moreover, since 1950, a special procedure has existed whereby complaints relating to freedom of association are referred to the Committee on Freedom of Association (CFA) of the Governing Body. The CFA may also examine complaints relating to Member States that have not ratified the relevant freedom of association Conventions.

Role of employers' and workers' organizations

As a natural consequence of its tripartite structure, the ILO was the first international organization to associate the social partners directly in its activities. The participation of employers' and workers' organizations in the supervisory mechanisms is recognized in the Constitution under article 23, paragraph 2, which provides that reports and information submitted by governments in accordance with articles 19 and 22 must be communicated to the representative organizations.

In practice, representative employers' and workers' organizations may submit to their governments' observations on the reports concerning the application of international labour standards. They may, for instance, draw attention to a discrepancy in law or practice regarding the application of a ratified Convention. Furthermore, any employers' or workers' organization may submit observations on the application of international labour standards directly to the Office. The Office will then forward these to the government concerned, which will have an opportunity to respond before the observations are examined by the Committee of Experts except in exceptional circumstances.³

¹ For detailed information on all the supervisory procedures, see *Handbook of procedures relating to international labour Conventions and Recommendations*, International Labour Standards Department, International Labour Office, Geneva, 2019.

² Reports are requested every three years for the fundamental and governance Conventions, and every six years for other Conventions. At its 334th Session the Governing Body decided to expand the reporting cycle for the latter category of Conventions from five to six years (GB.334/INS/5). Reports are due for groups of Conventions according to subject matter. Following the amendment of the 1998 Declaration, the Governing Body decided to apply a three-year cycle for the fundamental Conventions on occupational safety and health as from 2024 (GB.346/INS/3/3).

³ General Report, paras 127–136.

Origins of the Conference Committee on the Application of Standards and the Committee of Experts on the Application of Conventions and Recommendations

During the early years of the ILO, both the adoption of international labour standards and the regular supervisory work were undertaken within the framework of the plenary sitting of the annual International Labour Conference. However, the considerable increase in the number of ratifications of Conventions rapidly led to a similarly significant increase in the number of annual reports submitted. It soon became clear that the plenary sitting of the Conference would not be able to examine all of these reports at the same time as adopting standards and discussing other important matters. In response to this situation, the Conference in 1926 adopted a resolution⁴ establishing on an annual basis a Conference Committee (subsequently named the Conference Committee on the Application of Standards) and requesting the Governing Body to appoint a technical committee (subsequently named the Committee of Experts on the Application of Conventions and Recommendations) which would be responsible for drawing up a report for the Conference. These two committees have become the two pillars of the ILO regular supervisory system.

Committee of Experts on the Application of Conventions and Recommendations

Composition

The Committee of Experts is composed of 20 members, who are outstanding legal experts at the national and international levels. The members of the Committee are appointed by the Governing Body upon the recommendation of its Officers based on proposals by the Director-General. Appointments are made in a personal capacity from among impartial persons of competence and independent standing drawn from all regions of the world, in order to enable the Committee to have at its disposal first-hand experience of different legal, economic and social systems. The appointments are made for renewable periods of three years. In 2002, the Committee decided that there would be a limit of 15 years' service for all members, representing a maximum of four renewals after the first three year appointment. At its 79th Session (November–December 2008), the Committee decided that its Chairperson would be elected for a period of three years, which would be renewable once for a further three years. At the start of each session, the Committee would also elect a Reporter.

Work of the Committee

The Committee of Experts meets annually in November–December. In accordance with the mandate given by the Governing Body,⁵ the Committee is called upon to examine the following:

- the periodic reports under article 22 of the Constitution on the measures taken by Member States to give effect to the provisions of the Conventions to which they are parties;
- the information and reports concerning Conventions and Recommendations communicated by Member States in accordance with article 19 of the Constitution;

⁴ *Record of Proceedings* of the Eighth Session of the International Labour Conference, 1926, Vol. 1, Appendix VII.

⁵ Terms of reference of the Committee of Experts, Minutes of the 103rd Session of the Governing Body (1947), Appendix XII, para. 37.

- information and reports on the measures taken by Member States in accordance with article 35 of the Constitution.⁶

The task of the Committee of Experts is to indicate the extent to which each Member State's legislation and practice are in conformity with ratified Conventions and the extent to which Member States have fulfilled their obligations under the ILO Constitution in relation to standards. In carrying out this task, the Committee adheres to its principles of independence, objectivity and impartiality.⁷ The comments of the Committee of Experts on the fulfilment by Member States of their standards-related obligations take the form of either observations or direct requests. Observations are generally used in more serious or long-standing cases of failure to fulfil obligations. They are reproduced in the annual report of the Committee of Experts, which is then submitted to the Conference Committee on the Application of Standards in June every year. Direct requests are not published in the report of the Committee of Experts, but are communicated directly to the government concerned and are available online.⁸ In addition, the Committee of Experts examines, in the context of the General Survey, the state of the legislation and practice concerning a specific area covered by a given number of Conventions and Recommendations chosen by the Governing Body.⁹ The General Survey is based on the reports submitted in accordance with articles 19 and 22 of the Constitution, and it covers all Member States regardless of whether or not they have ratified the concerned Conventions.

Report of the Committee of Experts

As a result of its work, the Committee produces an annual report. The report consists of two volumes.

The first volume (Report III (Part A))¹⁰ is divided into two parts:

- **Part I: the General Report** describes, on the one hand, the progress of the work of the Committee of Experts and specific matters relating to it that have been addressed by the Committee and, on the other hand, the extent to which Member States have fulfilled their constitutional obligations in relation to international labour standards.
- **Part II: Observations concerning particular countries** on the fulfilment of obligations in respect of the submission of reports, the application of ratified Conventions grouped by subject matter and the obligation to submit instruments to the competent authorities.

The second volume contains the **General Survey** (Report III(Part B)).

⁶ Article 35 covers the application of Conventions to non-metropolitan territories.

⁷ General Report, para. 33.

⁸ General Report, para. 106. Observations and direct requests are accessible through the NORMLEX database available at: www.ilo.org/normes.

⁹ By virtue of the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008, a system of annual recurrent discussions in the framework of the Conference has been established to enable the Organization to gain a better understanding of the situation and varying needs of its members in relation to the four strategic objectives of the ILO, namely: employment; social protection; social dialogue and tripartism; and fundamental principles and rights at work. The Governing Body considered that the recurrent reports prepared by the Office for the purposes of the Conference discussion should benefit from the information on the law and practice of Member States contained in General Surveys, as well as from the outcome of the discussions of General Surveys by the Conference Committee. In principle, the subjects of General Surveys have therefore been aligned with the four strategic objectives of the ILO. The importance of the coordination between the General Surveys and recurrent discussions was reaffirmed in the framework of the adoption of a five-year cycle of recurrent discussions by the Governing Body in November 2016.

¹⁰ This citation reflects the agenda of the International Labour Conference, which contains as a permanent item, item III relating to information and reports on the application of Conventions and Recommendations.

Committee on the Application of Standards of the International Labour Conference

Composition

The Conference Committee on the Application of Standards is one of the two standing committees of the Conference. It is tripartite and therefore comprises representatives of governments, employers and workers. At each session, the Committee elects its Officers, which include a Chairperson (Government member), two Vice-Chairpersons (Employer member and Worker member) and a Reporter (Government member).

Work of the Committee

The Conference Committee on the Application of Standards meets annually at the Conference usually in June. Pursuant to article 10 of the Standing Orders of the Conference, the Committee shall consider:

- measures taken to give effect to ratified Conventions (article 22 of the Constitution);
- reports communicated in accordance with article 19 of the Constitution (General Surveys);
- measures taken in accordance with article 35 of the Constitution (non-metropolitan territories).

The Committee is required to present its report to the plenary sitting of the Conference.

Following the independent technical examination carried out by the Committee of Experts, the proceedings of the Conference Committee on the Application of Standards provide an opportunity for the representatives of governments, employers and workers to examine together the manner in which States are fulfilling their standards-related obligations. Governments are able to elaborate on information previously supplied to the Committee of Experts, indicate any further measures taken or proposed since the last session of the Committee of Experts, draw attention to difficulties encountered in the fulfilment of obligations and seek guidance as to how to overcome such difficulties.

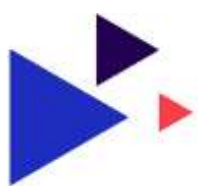
The Conference Committee on the Application of Standards discusses the report of the Committee of Experts, and the documents submitted by governments. The work of the Conference Committee starts with a general discussion based essentially on the General Report of the Committee of Experts. The Conference Committee then discusses the General Survey. It also examines cases of serious failure to fulfil reporting and other standards-related obligations. Finally, the Conference Committee examines a number of individual cases concerning the application of ratified Conventions which have been the subject of observations by the Committee of Experts. At the end of the discussion of each individual case, the Conference Committee adopts conclusions on the case in question.

In its report ¹¹ submitted to the plenary sitting of the Conference for adoption, the Conference Committee on the Application of Standards may invite the Member State whose case has been discussed to accept a technical assistance mission by the International Labour Office to increase its capacity to fulfil its obligations, or may propose other types of missions. The Conference Committee may also request a government to submit additional information or address specific concerns in its next report to the Committee of Experts. The Conference Committee also draws the attention of the Conference to certain cases, such as cases of progress and cases of serious failure to comply with ratified Conventions.

¹¹ The report is published in the *Record of Proceedings* of the Conference. Since 2007, it has also been issued in a separate publication. See, for the last report, *Conference Committee on the Application of Standards: Extracts from the Record of Proceedings*, International Labour Conference, 110th Session, Geneva, 2022.

The Committee of Experts and the Conference Committee on the Application of Standards

In numerous reports, the Committee of Experts has emphasized the importance of the spirit of mutual respect, cooperation and responsibility that has always existed in relations between the Committee of Experts and the Conference Committee. It has accordingly become the practice for the Chairperson of the Committee of Experts to attend the general discussion of the Conference Committee and the discussion on the General Survey as an observer, with the opportunity to address the Conference Committee at the opening of the general discussion and to make remarks at the end of the discussion on the General Survey. Similarly, the Employer and Worker Vice-Chairpersons of the Conference Committee are invited to meet the Committee of Experts during its sessions and discuss issues of common interest within the framework of a special session held for that purpose.



Part I. General Report

► I. Introduction

1. The Committee of Experts on the Application of Conventions and Recommendations, appointed by the Governing Body of the International Labour Office to examine the information and reports submitted under articles 19, 22 and 35 of the Constitution by Member States of the International Labour Organization on the action taken with regard to Conventions and Recommendations, held its 93rd Session from 28 November to 10 December 2022¹ in a hybrid modality involving in-person participation by 16 members and online conferencing by 3 experts. The Committee has the honour to present its report to the Governing Body.

A. Composition of the Committee

2. The composition of the Committee is as follows: Mr Shinichi AGO (Japan), Ms Lia ATHANASSIOU (Greece), Ms Leila AZOURI (Lebanon), Mr James J. BRUDNEY (United States of America), Ms Graciela Josefina DIXON CATON (Panama), Mr Rachid FILALI MEKNASSI (Morocco), Mr. José HERRERA VERGARA (Colombia), Mr Benedict KANYIP (Nigeria), Mr Alain LACABARATS (France), Ms Elena E. MACHULSKAYA (Russian Federation), Ms Karon MONAGHAN (United Kingdom of Great Britain and Northern Ireland), Mr Sandile NGCOBO (South Africa), Ms Rosemary OWENS (Australia), Ms Mónica PINTO (Argentina), Mr Paul-Gérard POUGOUÉ (Cameroon), Mr Raymond RANJEVA (Madagascar), Ms Kamala SANKARAN (India), Ms Ambiga SRENEVASAN (Malaysia), Ms Deborah THOMAS-FELIX (Trinidad and Tobago) and Mr Bernd WAAS (Germany). Appendix I of the General Report contains brief biographies of all the Committee members.
3. The Committee welcomed three new members appointed by the Governing Body at its 346th Session, namely, Mr José Herrera Vergara (Colombia), Mr Benedict Kanyip (Nigeria) and Ms Ambiga Sreenevasan (Malaysia).
4. Professor Herrera Vergara holds a Master's Degree in Labour Law and Social Security from the University Colegio Mayor de Nuestra Señora del Rosario in Bogota and a Diploma in Community Health and Social Security from the Centre for Cooperative and Labour Studies for Latin America in Jerusalem (Colombia). He has written on labour law reform. Professor Herrera Vergara was Vice-President of the Iberoamerican Academy for Labour Law and Social Security from 2019 to 2022. From 1994 to 2002, he served as judge on the Colombian Supreme Court including as President (1996) and President of the Labour Chamber (1999 and 2002). He served as *Conjuez* of the Constitutional Court from 2014 to 2019 and of the Supreme Court from 2003 to 2022.
5. Judge Kanyip is President of the National Industrial Court of Nigeria (NICN), which he joined as Member in 2000 and thereafter as Judge in 2006. He referred to international best practices in labour as well as to ILO Conventions in a number of judgments. He holds an LLB Degree in Law, a Masters (LLM) Degree in Commercial Law with a thesis in company taxation, and a PhD in law with specialization in consumer protection law. Fellow of a number of institutes, including the Nigerian Institute of Legal Studies and the Chartered Institute of Taxation of Nigeria, Judge Kanyip has taught law of contract, commercial law, law of tort, tax law and consumer protection in Ahmadu Bello University, Zaria and Benue State University, Makurdi, all in Nigeria. He was a Senior Researcher Fellow at the Nigerian Institute of Advanced Legal Studies (NIALS) in Lagos and rose

¹ At its 344th Session (March 2022), the Governing Body decided to extend the annual session of the Committee of Experts to include two weeks of remote preparatory work ([GB.344/LILS/4/Decision](#)). In 2022, the period of remote preparatory work was scheduled from 14 to 25 November 2022.

to the position of Associate Research Professor of Law before joining the NICN in 2000. His research and publication straddled the areas of consumer protection, commercial law, tax law and labour law. In 2006 and 2010, he participated in the processes that led to the promulgation of the National Industrial Court Act 2006 and the Third Alteration to the 1999 Constitution of Nigeria as well as in the comprehensive reform of labour laws still ongoing and in the context of which he worked with the ILO. In 2017, he undertook the Study on Harmonization of Labour Laws in the Economic Community of West African States (ECOWAS) and served as a member of the Committee of Experts that reviewed the Draft Report.

6. Dato Ambiga Sreenevasan holds an Honorary Doctorate from the University of Exeter (2011) having graduated with a Bachelor of Laws in 1979. She was President of the Malaysian Bar Council from 2007 to 2009 and Chairperson of the Bar Council's Committee on Rights between 2010 and 2012. She was also President of the National Human Rights Society from 2014 to 2018. She is currently a member of the International Commission of Jurists and an alternate member of its Executive Committee. A well-known human rights advocate, Dato Sreenevasan has received several international awards for her work, including: the *Chevalier de la Légion d'honneur*; the 4th Commonwealth Rule of Law Award; the United Nations Malaysia award for contribution to the Sustainable Development Goals relating to human rights and governance; and the International Women of Courage Award, for her work on women's rights and religious freedom. Dato Sreenevasan practises as senior counsel in a wide array of civil, commercial and corporate litigation matters and was recognized in 2019 as a leading expert on dispute resolution in the Legal 500 Asia-Pacific guide.
7. As a result of the three appointments, the Committee functioned with a close to full composition of 19 members. One member, Ms Machulskaya, informed the Committee that she could not participate in this year's session for personal reasons.
8. This year, Ms Graciela Dixon Caton continued her mandate as Chairperson and Mr Shinichi Ago was elected as Reporter.
9. The Committee noted that this was the last year on the Committee for one of its outstanding members, Mr Ranjeva, who had completed 15 years of service. It also noted that two members, Ms Owens and Ms Monaghan, had decided to leave the Committee for personal reasons after having served for 12 and 9 years respectively. The Committee expressed its great appreciation for the outstanding manner in which Ms Monaghan, Ms Owens and Mr Ranjeva carried out their mandate during their long years of service on the Committee and particularly commends them for their technical excellence, legal expertise, independence and moral standing. The Committee also expressed its deepest appreciation to Professor Owens for the excellent way in which she fulfilled her functions as Reporter for six years (2014, 2015, 2016, 2017, 2020 and 2021).

B. Working methods

10. In order to guide the Committee's reflection on continuous improvement of its work, a Subcommittee on Working Methods was set up in 2001 with the mandate to examine the working methods of the Committee and any related subjects, in order to make appropriate recommendations to the Committee so that it can perform its functions in the best and most efficient manner possible and, in so doing, assist Member States in meeting their obligations in relation to international labour standards and enhance the functioning of the supervisory system. This year, under the Chairpersonship of Mr Bernd Waas, the Subcommittee on Working Methods met for the 22nd time.
11. The Subcommittee continued its discussion on a possible further modernization of its working methods. It discussed the distinction between observations and direct requests and decided as a result, that where observations are accompanied by direct requests, the text of the latter could

be streamlined. It also decided to extend the practice of urgent appeals to reports which have not been submitted for three years or more even if no comment is pending. The list of these urgent appeals appears in this year's General Report in the table accompanying paragraph 91. Finally, the Subcommittee was briefed by the Office on certain initiatives and pilot projects under consideration in a context of further modernization of the ILO's normative action, including its supervisory mechanism. The Subcommittee noted that the Governing Body is to discuss related matters at its 349th Session (November 2023) and looks forward to the outcome of this discussion.

Information and collaboration sessions

Information session with Government representatives

12. At its previous 92nd Session, the Committee gave positive consideration to the request put forward by Government members of the Conference Committee to consider the possibility of a meeting between the Committee of Experts and Government representatives. Accordingly, an information session was organized at its 93rd Session to which all Member States were invited. A fruitful exchange took place based on questions raised by Government representatives on the following subjects:
- how to give more visibility to cases of progress;
 - how to improve synergies with reports provided to other UN entities notably in the framework of the human rights mechanisms so as to streamline the reporting burden on governments and related reporting difficulties;
 - how to streamline article 22 reports on similar Conventions to avoid duplication;
 - the criteria for determining which organizations may be considered as employers' or workers' organizations when they submit comments under article 23, paragraph 2, of the ILO Constitution for examination by the Committee;
 - any improvements in working methods in addition to the extension of the Committee's annual session by two weeks as of this year;
 - follow-up given by the Committee of Experts to cases referred to it by the Committee on Freedom of Association.

Collaboration with the United Nations

13. In last year's General Report, the Committee invited the UN treaty bodies to a joint reflection over ways to strengthen synergies and complementarities drawing on each body's respective and distinct mandates in a context of a repositioned UN development system and the UN Secretary-General's initiative known as the Call to Action for Human Rights. The Committee is pleased to note that this call was positively received and led to the organization of an exchange with the Chairpersons or Vice-Chairpersons of seven human rights treaty bodies, namely, the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, the Committee on Migrant Workers and Members of their Families, the Committee on the Elimination of Discrimination Against Women, the Committee Against Torture, the Committee on Enforced Disappearances, and the Subcommittee on Prevention of Torture. The discussion centred on the current challenges faced in a world confronted with multiple interlocking crises and the opportunities for action provided by the UN Secretary-General's Call to Action for Human Rights and the repositioned UN Development System. Many participants expressed a desire to develop a closer dialogue and periodical exchanges with a view to creating synergies through joint statements and exchange of analysis in the future. They also agreed on a joint statement to mark the third anniversary of the UN Secretary General's Call to Action for Human Rights. The joint

statement will be published as an Addendum to the Committee's report upon its release on 24 February 2023.

Relations with the Conference Committee on the Application of Standards

14. A spirit of mutual respect, cooperation and responsibility has consistently prevailed over the years in the Committee's relations with the Committee on the Application of Standards of the International Labour Conference. In this context, the Chairperson of the Committee has been invited to participate in the general discussion of the Conference Committee at the 110th Session of the International Labour Conference which took place in a hybrid modality in May-June 2022 in the context of the continuing COVID-19 pandemic and parallel interlocking crises. In addition, the Chairperson of the Committee on Freedom of Association was invited once again to address the Conference Committee in order to present the Committee's Annual Report.
15. The Chairperson of the Committee of Experts invited the Employer Vice-Chairperson (Ms Sonia Regenbogen) and the Worker Vice-Chairperson (Mr Marc Leemans) to participate in a special sitting of the Committee at its present session. They both accepted this invitation. An interactive and thorough exchange of views took place on matters of common interest.
16. The Chairperson invited the two Vice-Chairpersons to have a common reflection on how to work in mutually reinforcing ways towards securing compliance with the conclusions adopted by the Conference Committee on the cases considered each year. The special sitting with the Vice-Chairpersons could serve as a forum for an exchange on this crucial aspect of making the supervisory system more effective.
17. The Employer Vice-Chairperson emphasized that the special sitting with the two Vice-Chairpersons was an established practice of critical importance for cooperation between the two Committees and for standards supervision with greater and lasting positive impact. She considered that additional opportunities should be found for deeper exchanges on specific matters and would welcome an exchange on the importance of effective and authoritative supervision. She added that the employers fully supported the goal of effective supervision for broad and effective implementation of international labour standards and looked forward to discussing ways to work constructively with the Committee of Experts in this framework.
18. The Employer Vice-Chairperson added that there was a global tripartite consensus that the Centenary Declaration should be the key framework leading to sustainable recovery from the COVID-19 pandemic by responding to the changing patterns of the world of work, protecting workers and taking into account the needs of sustainable enterprises. In a context where the new Director-General accorded high priority to modernizing the supervisory system, it was essential that all parties fully understood the needs of the tripartite constituents in their national contexts and provided them with practical and effective guidance for the implementation of international labour standards in law and in practice at the national level. The key to broad and effective implementation was to promote social dialogue and tripartism at both national and global levels.
19. Noting the low reporting levels and high number of comments, she called for practical ways to be found in order to be more impactful at the national level, produce more constructive results, modernize the supervisory system and ensure more effective supervision, emphasizing the importance of open dialogue and close cooperation of all actors involved. In her view, the Committee of Experts must ensure that its assessments are up to date, sensitive to the views of the tripartite constituents and receptive to the statements made in the Conference Committee, observations by employers' and workers' organizations under article 23(2) of the ILO Constitution and Governing Body discussions.

20. She emphasized that the Committee of Experts should take special care not to create new obligations which were not reflected in the text of Conventions. She referred to the right to strike as a clear example of how the diversity of industrial relations had led to a variety of rules and practices at the national level that were very difficult to standardize internationally. In her view, the Committee of Experts had nevertheless made detailed rules on this itself, thus disregarding ILO competences and procedures for standard-setting. She indicated her view that seeking to address the authority of these detailed rules by initiating the article 37 procedure would be tantamount to an indictment of the ILO and its supervisory system. In her view, the ILO standards system should take up this challenge itself. The Conference Committee had managed to find a *modus vivendi* on the right to strike and it was time for the tripartite constituents to reflect seriously on their standard-setting competence on this issue and to find a solution balancing the different interests in a tripartite process. The Office should actively facilitate an understanding on a lasting way forward on this critical issue based on dialogue.
21. She added that the Committee of Experts should also avoid limiting the flexibility provided in the text of conventions and referred to observations previously made by the Employers group on the promotion of the right to collective bargaining on the basis of article 4 of Convention No. 98. She called on the Committee of Experts to fully respect the flexibility afforded by article 4 of Convention No. 98 and the free and voluntary nature of collective bargaining in order to allow Member States to find ways of implementing the Convention in line with national circumstances and needs.
22. The Employer Vice-Chairperson also called on the Committee of Experts to focus on the application of standards for the vast percentage of the workforce in the informal economy and to take account of the needs of sustainable enterprises in its assessments especially in the context of COVID-19 recovery. She reiterated a few suggestions to improve the substance and format of the Committee's report by: (i) closely adhering to the provisions of the relevant Conventions when making comments; (ii) avoiding making requests based on Recommendations which provided only non-binding guidance; (iii) clarify the distinction between observations and direct requests, given that the latter were not subject to discussion in the CAS, or alternatively eliminate direct requests and consider other ways of requesting information from Governments; (iv) clarify the criteria for double-footnoted cases; (v) provide explanations on the selection of cases brought to the attention of the Conference Committee (double footnotes); and (vi) consider a regional balance when identifying such cases. With regard to the format of the Committee's report, she mentioned that there was room for improvement in the presentation, length and content of comments and proposed to make government reports and article 23 comments accessible online. Also, cases of progress should become more visible.
23. She concluded by emphasizing that where the two bodies reached consensual recommendations, they became mutually reinforcing leading to faster, better, and more sustainable compliance at country level. The two bodies should strive to continue in this direction towards an effective and authoritative supervisory system. She would welcome the opportunity to have a more in-depth exchange on specific subject matters as appropriate in the future.
24. The Worker Vice-Chairperson (Mr Leemans) welcomed the invitation to launch a common reflection on how to strengthen the follow-up to the conclusions of the Conference Committee. He recalled that the Committee of Experts was at the heart of the supervisory system and everyone should respect its independence, impartiality and professionalism which constituted the cornerstone of the Committee's authority and credibility. He emphasized that the Conference Committee had no mandate to control the Committee's work. Independence also meant that the Committee of Experts had full autonomy in the choice of its working methods, as the predictability of these methods lied at the basis of its moral authority and persuasiveness.

25. In his view, clarifications could always be asked in the framework of dialogue and mutual learning, without presenting demands or exerting any pressure, with a view to building a common understanding of how supervision of application and progress made, or lack thereof, could lead to the selection of, for example, a direct request instead of an observation, or one case over another for a double footnote, acknowledging that this was not an exact science.
26. The Worker Vice-Chairperson emphasized that the fact that divergent views were being expressed within the Conference Committee on some questions did not mean that there was a difference of views between the Conference Committee as a whole and the Committee of Experts. In fact, there was none. The question of interpretation of Convention No. 87 on the right to strike might be resolved through the process envisaged in article 37 of the ILO Constitution. He noted that the Employer Vice-Chairperson had brought forward in the meantime additional concerns with regard to the interpretation of Convention No. 98 both in the Conference Committee and at the present meeting. He recalled that the Committee of Experts had been exercising its mandate for more than 90 years guiding Member States and ensuring legal certainty, with a clear and specific vision on its role and function within the international supervisory system. It would be unacceptable to impose on the Committee of Experts the views of a single group on the interpretation of international labour standards.
27. With regard to the recurrent references by the Employer Vice-Chairperson to sustainable enterprises he saw two major obstacles to meeting the employer request. First, the mandate of the Committee of Experts was to supervise the application of instruments to which Member States had acceded. These instruments concerned the rights of workers, not the sustainability of enterprises. Second, there was no generally accepted definition of sustainable enterprises. While it would be useful to have a discussion on this topic at the International Labour Conference, exchanges with the Committee of Experts were not the appropriate place for doing so.
28. The Worker Vice-Chairperson welcomed the initiatives and dialogue of the Committee of Experts with the UN Human Rights Treaty Bodies which was important in order to position the ILO's mandate next to that of other entities within the UN system. He also asked for ways to make General Surveys more visible inside and outside the ILO including through presentations and dissemination of information. With regard to gender equality which was the subject of this year's General Survey, he emphasized the importance of the gender dimension at the workplace for reaching more inclusive societies.
29. He also welcomed the effective and authoritative supervision and the guidance given by the Committee of Experts on the role of international labour standards in the context of overcoming the COVID-19 crisis in the framework of the Global Call to Action including with regard to maritime labour. The crisis had a disproportionate impact on the application of international labour standards and necessitated constant supervision.
30. The Committee of Experts welcomed the comments made by the two Vice-Chairpersons recognizing the independent and complementary roles of the two Committees and the importance of building on convergence through continued interaction. With regard to its working methods, the Committee assured the Vice-Chairpersons that it was listening to the voices of the tripartite constituents and was fully prepared to play an active role in the continuous modernization of the supervisory system. The concerns expressed with regard to certain distinctions between observations and direct requests were taken very seriously. Without embracing change for the sake of change, the Committee was ready to build inroads based on the criteria of continuous reliability, predictability and transparency. While focused on improving and deepening a constructive dialogue with Governments and the social partners, the Committee was also interested in improving outreach vis-à-vis the wider public.

31. The Committee also referred to its relationship with the UN Human Rights Treaty Bodies, based on the fact labour standards served as precursors of human rights instruments since the ILO's creation more than 100 years ago, setting the rules for economic development so that it could go hand in hand with social justice and global peace. When human rights were proclaimed in the Universal Declaration of Human Rights and entrenched the UN Charter in 1945, international labour standards became an integral part of this framework and a new era opened up. The Committee of Experts functioned in ways which found their echo in the work of the Human Rights Treaty Bodies with the same ultimate purpose to promote respect for international obligations. There was much complementarity in this work and a consequent need for consistency within each entity's respective mandates. There were also hopes that enhanced synergies would open up space for higher levels of consistency. The Committee of Experts had invited the Chairpersons of the Human Rights Treaty Bodies to an exchange which was very productive and opened the way for closer collaborations, ultimately enhancing the impact of the ILO supervisory mechanism.
32. The Committee also referred to improvements introduced in this year's General Survey entitled *Achieving Gender Equality at Work*² which addressed different aspects of the same policy question, i.e., how to promote equality of opportunity and treatment between women and men at work and the realization of the fundamental principle of gender equality. The Committee referred in particular to the use of hyperlinks, improved visibility of conclusions and the possibility to address all Member States through the General Survey. The Committee expressed the hope that this year's General Survey would draw attention to the fundamental importance of gender equality and would meet the constituents' expectations.

C. Mandate

33. **The Committee of Experts on the Application of Conventions and Recommendations is an independent body established by the International Labour Conference and its members are appointed by the ILO Governing Body. It is composed of legal experts charged with examining the application of ILO Conventions and Recommendations by ILO Member States. The Committee of Experts undertakes an impartial and technical analysis of how the Conventions are applied in law and practice by Member States, while cognizant of different national realities and legal systems. In doing so, it must determine the legal scope, content and meaning of the provisions of the Conventions. Its opinions and recommendations are non-binding, being intended to guide the actions of national authorities. They derive their persuasive value from the legitimacy and rationality of the Committee's work based on its impartiality, experience and expertise. The Committee's technical role and moral authority is well recognized, particularly as it has been engaged in its supervisory task for more than 90 years, by virtue of its composition, independence and its working methods built on continuing dialogue with governments taking into account information provided by employers' and workers' organizations. This has been reflected in the incorporation of the Committee's opinions and recommendations in national legislation, international instruments and court decisions.**

² Report III (Part B), International Labour Conference, 111th Session, Geneva, 2023.

D. Application of international labour standards and the quest for social justice in the context of protracted and interlocking crises

From the COVID-19 pandemic to protracted and interlocking crises

34. While the COVID-19 pandemic and the consequent jobs crisis are still sorely felt, climate change, armed conflict, inflation, energy and food shortages have generated ripples of crises over the past year. These protracted and interlocking crises aggravate the pre-existing high levels of inequality among and within countries, putting to the test the 2030 Agenda and the credibility of the international community's pledge to deliver inclusive and sustainable growth, full, productive and freely chosen employment and decent work for all, leaving no one behind.³ Protracted and interlocking crises affect not only economic recovery but also social cohesion, peace, stability and life on the planet.

The quest for social justice

35. The Committee welcomes the ILO Director-General's initiative to launch a Global Coalition for Social Justice based on the universal values entrenched in human rights and international labour standards and promoted through inclusive social dialogue with an inequality-reducing agenda at its core. It notes that this initiative meets the United Nations (UN) Secretary-General's "Our Common Agenda", which identifies today's growing world divide along political, economic, social and environmental lines as the chief cause of the erosion of the values of solidarity and mutual trust and calls for the renewal of the social contract between governments and their people and within societies.
36. The Committee recalls the ILO Constitution which provides that "Universal and lasting peace can be established only if it is based upon social justice". It recalls that social justice, in turn, can only be maintained by observing labour rights and realizing human rights more broadly, with a view to tackling today's multiple and interlocking crises in a human-centred, inclusive and sustained manner, leaving no one behind.⁴
37. The Committee is aware that all too often, persons in vulnerable situations are those most impacted by crises, conflicts and disasters, in particular, children and youth, women, older persons, migrant workers, those working in the informal economy, indigenous peoples, persons with disabilities and those vulnerable to intersectional discrimination. It is in difficult times that the most vulnerable need their rights to be safeguarded and their voices to be heard. The Committee emphasizes that a new social contract is urgently needed in times of protracted and interlocking crises, drawing upon the common values expressed in the ILO fundamental and governance Conventions as well as the technical standards which serve to set a level playing field in a global economy under strain.

³ Resolution concerning inequalities and the world of work, International Labour Conference, 110th Session, December 2021, para. 16 and follow-up (GB.346/INS/5, Governing Body, 346th Session (October–November 2022)).

⁴ Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205).

Impact of interlocking crises on the application of international labour standards

38. In its 2020 statement on the application of international labour standards in times of crisis, the Committee had underscored the limits to executive power which should apply in times of crisis.⁵ The Committee notes with growing concern increasing disparities between ILO Member States in respect of civil liberties, fundamental rights and the rule of law.
39. The Committee takes due note of the Governing Body's Resolution adopted at its 344th Session⁶ in which it urged the Russian Federation to meet all the obligations following from its ratification of ILO Conventions, including: the Maritime Labour Convention, 2006, as amended (MLC, 2006), in particular in relation to the repatriation of seafarers and access to medical care; the Radiation Protection Convention, 1960 (No. 115), in relation to the exposure of workers to ionizing radiations in the course of their work; and the Forced Labour Convention, 1930 (No. 29) and its accompanying Protocol of 2014. It also notes that the Governing Body encouraged the ILO Director-General to continue to monitor and take appropriate steps to safeguard the labour rights of workers and support the sustainability of enterprises in Ukraine, including in areas that are temporarily controlled by the Russian Federation, and including in nuclear power plants.⁷ The Committee undertakes to follow up on this Resolution within the framework of its mandate. It recalls that the obligations arising from freely ratified standards must be observed on all sides and at all times and expresses the hope that conditions to do so in the spirit of cooperation envisaged by all standards will very soon be restored.

Freedom of association and collective bargaining

40. Freedom of association and collective bargaining, as enabling rights for the exercise of fundamental rights at work leading to a fairer distribution of wealth, face significant challenges across the world, at the same time as the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) remain less ratified than the six other Conventions proclaimed as fundamental in 1998.
41. The Committee takes due note of the double special paragraph for continued failure to implement Convention No. 87 inserted in the report of the Conference Committee on the Application of Standards with regard to Belarus,⁸ drawing the International Labour Conference's attention to the seriousness of the violations and calling upon the Governing Body to examine measures under article 33 of the ILO Constitution for failure to implement the recommendations of a Commission of Inquiry. The Committee notes that the Governing Body⁹ will examine in March 2023 (347th Session) measures under article 33 of the ILO Constitution to secure compliance by the Government of Belarus with the recommendations of the Commission of Inquiry in the light, inter alia, of the Committee's examination of this matter at its current session. It also notes that

⁵ Application of International Labour Standards in times of crisis: the importance of international labour standards and effective and authoritative supervision in the context of the COVID-19 pandemic. Report III(A), International Labour Conference, 109th Session, Geneva, 2021, para. 51.

⁶ GB.344/Resolution, Governing Body, 344th Session (March 2022) and GB.346/INS/14, Governing Body, 346th Session (October–November 2022).

⁷ GB.346/INS/14/Decision, Governing Body, 346th Session (October–November 2022).

⁸ Records of Proceedings Nos 4A and 4B, 110th Session of the International Labour Conference, 2022.

⁹ GB.346/INS/14/Decision, Governing Body, 346th Session (October–November 2022).

the 111th Session of the International Labour Conference (2023) will further examine this matter.¹⁰

42. Furthermore, the Committee takes due note of the Governing Body's decision at its 344th and 345th Sessions (March and June 2022) to establish a Commission of Inquiry and appoint Commissioners under article 26 of the ILO Constitution with regard to the application of Conventions Nos 29 and 87 in Myanmar. The Committee stands ready to follow up on the Commission of Inquiry's report and recommendations as appropriate.
43. More generally, when it comes to freedom of association and civil liberties in times of crisis, the Committee recalls its long-standing statement according to which crisis situations cannot be used to justify restrictions on the civil liberties that are essential to the proper exercise of trade union rights, except in circumstances of extreme gravity and on condition that any measures affecting their application are limited in scope and duration to what is strictly necessary to deal with the situation in question.¹¹ The Committee has consistently recalled, in the context of an economic crisis, the importance, as also highlighted by the CFA, of maintaining permanent and intensive dialogue with the most representative workers' and employers' organizations in particular in the process of adopting legislation, which may have an effect on workers' rights, including those intended to alleviate a serious crisis situation.¹²
44. The Committee takes note that, as indicated in the [2022 Social Dialogue Flagship Report](#),¹³ collective bargaining has played an important role during the COVID-19 pandemic in securing decent work, guaranteeing equality of opportunity and treatment, reducing wage inequality and stabilizing labour relations. The [2022–23 Global Wage Report](#) confirms that collective bargaining can help to achieve adequate wage adjustments during a crisis.¹⁴
45. The Committee emphasizes the key role of collective bargaining as a unique empowerment tool to ensure that the social partners actively participate in shaping inclusive and tailor-made solutions to the problems faced in times of crises. It notes, in this regard, the very uneven levels of collective bargaining coverage across countries highlighted in the 2022 Social Dialogue Flagship Report and underlines the importance of creating the conditions for a broader access to this fundamental right across ILO Member States.

Occupational safety and health

46. The Committee welcomes the historical decision by the 110th Session of the International Labour Conference (2022) to bring a safe and healthy working environment within the framework of fundamental principles and right at work by amending the 1998 Declaration on Fundamental Principles and Rights at Work and proclaiming two additional fundamental Conventions, namely, the Occupational Safety and Health Convention, 1981 (No. 155) and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187). In the aftermath of the COVID-19 pandemic and on the eve of the adoption by the UN General Assembly of a resolution recognizing a clean, healthy and sustainable environment as a universal human right, the recent amendment to the 1998 Declaration confirms that the ILO has the normative compass to guide its constituents in navigating the defining challenges of our time. The inclusion of a safe and healthy work

¹⁰ GB.345/INS/3/Decision, Governing Body, 345th Session (June 2022).

¹¹ ILO, [General Survey on Freedom of Association and Collective Bargaining](#), 1994, para. 41.

¹² [Compilation of decisions of the Committee on Freedom of Association](#), ILO, Geneva, 2018, paras 1437 and 1546.

¹³ [Social Dialogue Report 2022: Collective Bargaining for an Inclusive, Sustainable and Resilient Recovery](#), ILO, Geneva, 2022, p. 15.

¹⁴ [Global Wage Report 2022–23: The Impact of COVID-19 and Inflation on Wages and Purchasing Power](#), ILO, Geneva, 2022, p. 116.

environment in the fundamental principles and rights at work framework confirms once again that labour rights are human rights.

47. The Committee notes three new ratifications of these fundamental Conventions in 2022, as well as the significant number of countries that have expressed interest in ratifying these standards in the near future. It welcomes notable progress with respect to the implementation of both Convention No. 155 and No. 187, including the adoption of national occupational safety and health (OSH) policies in consultation with the social partners, the implementation of national OSH programmes resulting in a decrease in occupational accidents, and notable steps to reinforce OSH legislation. This has been accompanied by important legislative developments to implement the technical OSH Conventions related to asbestos, major hazard installations and radiation.
48. Despite these positive developments, challenges in the implementation of these fundamental Conventions remain, exacerbated by protracted crises, with certain countries reporting a growing number of occupational accidents and diseases, inactivity of national tripartite OSH consultative bodies, as well as allegations related to retaliation against workers for exercising their fundamental rights by reporting OSH issues.

Child labour and forced labour

49. The Committee is concerned to note the reversal in the fight against child labour due to the consequences of the protracted crises and myriad shocks – both natural and human-made – to which vulnerable populations, especially children, have been subjected in recent years. It welcomes the [Durban Call to Action](#) adopted at the 5th Global Conference on the Elimination of Child Labour which took place for the first time in Africa in May 2022 and joins the call for a rapid acceleration of progress on ending child labour.
50. Similarly, the Committee is alarmed by the latest [Global Estimates of Modern Slavery](#)¹⁵ released in September 2022, according to which 28 million people were in forced labour in 2021 and another 22 million women and girls trapped in forced marriage. According to data released for the first time in the Global Estimates, state-imposed forced labour accounts for 14 per cent of forced labour estimates. The report shows a disconcerting increase in the last five years as in 2021, 10 million more people were estimated to be in modern slavery compared to 2016, and this, despite the high ratification rate of the fundamental Conventions on forced labour and child labour.

Equality and non-discrimination

51. The Committee is concerned that gender inequalities remain persistent and pervasive, as manifested in the gender pay gap and the prevalence of both vertical and horizontal occupational segregation. As highlighted in this year's General Survey on achieving gender equality at work, full equality between women and men at work cannot be achieved in a broader context of inequality. Gender equality is a fundamental component of decent work and social justice, anchored in both a rights-based and an economic efficiency approach to sustainable and inclusive development. As illustrated in the General Survey, the COVID-19 crisis exacerbated pre-existing gender inequalities and reversed previous gains, as many girls and women were forced to leave education, training and the labour market in order to shoulder most of the burden of unpaid care and domestic work. Women continue to be disproportionately represented in the hardest hit service sectors including the informal paid care economy and domestic work. While these developments impede the application of several standards including the Equal Remuneration

¹⁵ Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, ILO, Geneva, 2022.

Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), they also have negative consequences for economic recovery.

52. Inequalities are more pronounced when multiple grounds of discrimination intersect. Women migrant domestic workers as well as indigenous women, women members of minorities and women with disabilities are particularly hard hit for example. More generally, the prolonged and interlocking crises have had a disproportionate effect on those who are vulnerable to discrimination on multiple or intersecting grounds covered by Convention No. 111, including race, colour, sex, religion, political opinion, national extraction or social origin and other ILO instruments, including Convention No. 159 and the HIV and AIDS Recommendation, 2010 (No. 200), as well as related human rights treaties.¹⁶
53. The Committee reiterates from its latest report (2022) its concern that “20 years after the [World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance](#), people of African descent, minority communities, indigenous peoples, migrants, refugees, and displaced persons continue to confront stigmatization, discrimination and violence. Reversing their vulnerability and marginalization, exacerbated where different grounds of discrimination intersect, requires specific emphasis on repealing all discriminatory laws, including laws giving rise to discrimination in employment and occupation, as proposed in the UNSG Call to Action for Human Rights and the Common Agenda.”¹⁷
54. The COVID-19 pandemic also led to a worrisome increase in violence and harassment, including on the basis of gender. The Committee welcomes in this regard that the examination of first reports on the application of the Violence and Harassment Convention, 2019 (No. 190) commenced at its current session following the entry into force of this important Convention.

Employment policies

55. The COVID-19 pandemic and ensuing jobs crisis had a devastating effect on economies and employment around the world, albeit with notable variations across regions, countries and economic sectors. Moreover, the crisis affected women and men differently, as a result of their different positions in the labour market and the distribution of family responsibilities. Persons belonging to disadvantaged groups who were already vulnerable to socio-economic shocks were hit the hardest, due to a number of factors. First, these workers are more likely to be concentrated in poorly remunerated jobs in the economic sectors most affected by the pandemic, such as in the care economy and the service sector more broadly. Second, they are more likely to be in informal and precarious employment, often working under part-time, temporary or casual arrangements, making them extremely vulnerable to job loss.
56. The COVID-19 crisis was particularly devastating for 2 billion workers in the informal economy who represent more than 60 per cent of the global workforce and are twice as likely to be living in poverty than formally employed workers. Given their precarious status, such workers often lack access to employment-related benefits, such as health and unemployment insurance, disability benefits and social security. Workers in the informal economy face the most serious decent work deficits, including higher exposure to OSH risks, as well as obstacles to freedom of association and the effective recognition of the right to collective bargaining.¹⁸
57. The Committee recalls that the development and implementation of a new generation of comprehensive, gender-responsive, inclusive and evidence-informed employment policies and

¹⁶ GB.346/INS/5, paras 8 and 9, Governing Body, 346th Session (October–November 2022).

¹⁷ Report III(A), ILC, 110th Session, 2022, General Report, para. 35.

¹⁸ GB.346/INS/5, paras 9 and 17, Governing Body, 346th Session (October–November 2022).

programmes that take into account the principles of international labour standards can help to ensure a sustainable job-rich recovery from crisis.¹⁹ Creating or restoring an enabling environment for sustainable enterprises, in particular for micro-, small and medium-sized enterprises, is also a crucial factor to stimulate employment, income generation, entrepreneurship and socio-economic recovery.

58. The Committee would like to emphasize that all workers, irrespective of employment status or sector of economic activity, fall within the scope of international labour standards except where they are explicitly excluded.
59. In this regard, the Committee welcomes the Governing Body decision to finalize an ILO strategy on decent work in supply chains for consideration at its March 2023 session and its call for a stronger link and exchange of information between the work of the supervisory mechanisms and the technical assistance and research work of the Office in order to truly benefit from the unique features of the ILO, including international labour standards and the [Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy](#), in the context of its action in the domain of supply chains.²⁰

Social protection

60. Over the past few years, the fundamental role of social protection has been reaffirmed as the centrepiece of strategies to mitigate the impact of crises and facilitate just transitions, including to an environmentally sustainable economy, with a view to ensuring that all members of society have access to income protection and healthcare when in need, in particular the most vulnerable. According to the social protection monitor, the recent crises have resulted in a significant expansion of social protection measures, at least among countries that had fiscal space to introduce them, which the Committee has noted positively in individual comments. The Committee is concerned, however, that the most recent cost-of-living crisis might mark a reversal in this trend as it is likely to affect the fiscal space within which support is provided, at a time when support is needed the most. Moreover, the Committee is concerned that, in the context of interlocking crises, food, fuel and medication shortages prevent access to essential goods and services and to essential healthcare.
61. Against this background, the Committee welcomes the launch of the ILO campaign for the ratification of the Social Security (Minimum Standards) Convention, 1952 (No. 102) and of other up-to-date social security Conventions, which seeks to further the implementation of these standards which are central to the pursuit of universal social protection globally.
62. The Committee also notes that this year's General Survey entitled *Achieving Gender Equality at Work* also looks into the various social protection measures that the ILO standards under review call for in order to achieve true and meaningful equality between men and women in the workplace, especially the measures adopted by Member States to secure the protection of workers with family responsibilities and in case of maternity.
63. The Committee welcomes the Governing Body's decision²¹ to have a General Survey in 2024 on selected social security instruments focusing on employment injury benefits, including with

¹⁹ 2020 General Survey on promoting employment and decent work in a changing landscape; and 2021 Addendum, Report III (Part B), ILC, 109th Session, 2021; [General observation on the application of the Employment Policy Convention, 1964 \(No. 122\)](#) adopted by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) at its 91st Session (Nov.–Dec. 2020).

²⁰ [GB.346/INS/6\(Rev.1\)](#), Governing Body, 346th Session (October–November 2022).

²¹ [GB.346/LILS/2/Decision](#), Governing Body, 346th Session (October–November 2022).

respect to workers in agriculture. It also welcomes the Governing Body's parallel invitation to seek information from Member States on the application, in law and practice, of Conventions Nos 102 (Part VI) and 121 in respect of employment injury benefits to agricultural workers and intends to consider this question in the framework of its 2025 General Survey. Finally, given the undeniable links between the social protection of workers in agriculture and the triple planetary crisis generated by climate change, biodiversity loss and pollution, the Committee takes note of the upcoming general discussion on a just transition to a zero-carbon economy at the 111th Session of the International Labour Conference (2023) and looks forward to its outcome.

64. In this context, the Committee takes note of the UN Secretary-General's initiative to entrust to the ILO the leadership of a [Global Accelerator for Jobs and Social Protection for Just Transition](#) in 2021 – an initiative that could become one of the central programmatic avenues for the promotion of universal social protection under a Global Coalition for Social Justice.

Working conditions

65. Concerning working-time issues, the Committee is concerned that the issues identified in its [2018 General Survey on working time instruments](#) persist and have worsened over the last five years under the influence of protracted and interlocking crises. It notes that, in some countries, flexible working-time arrangements were introduced in the midst of the pandemic without providing for clear statutory weekly and daily limits to total working hours, nor specifying the circumstances for resorting to overtime. Such flexible working-time arrangements include averaging systems with reference periods as long as one year and very high maximum daily hours of work. These arrangements potentially lead to long working hours, which are detrimental to mental and physical health as well as work-life balance. The Committee is concerned that lack of compensatory time off in case of work during weekly rest is also common in a number of countries. Moreover, practices have been reported such as non-payment for overtime and long periods of mandatory annual leave during the COVID-19 pandemic which were subsequently discounted from the following year's annual holidays with paid entitlements.
66. The Committee notes that the 2022–23 Global Wage Report estimates at six weeks of wages the average losses suffered by wage employees due to the COVID-19 crisis. It also identifies a growing gap between wages and productivity emerging since the early 1980s, as average wage growth has lagged behind average labour productivity growth in several large, developed economies. In 52 high-income countries for which data are available, real wage growth has been lower than productivity growth since 2000, and reached its widest point in 2022, in the midst of protracted and interlocking crises, with productivity growth 12.6 percentage points above wage growth. Rising inflation and cost of living have resulted in real wage growth dipping into negative figures in many countries, hitting low-income groups particularly hard. The report warns that in the absence of adequate policy responses, the near future could see a sharp erosion of the real incomes of workers and their families and an increase in inequality, threatening the economic recovery and possibly fuelling further social unrest. In this context, the Committee underlines the importance of setting robust minimum wage setting frameworks allowing for effective consultations with the social partners as provided in the Minimum Wage Fixing Convention, 1970 (No. 131) and ensuring that wages are paid in time and in full in order to sustain incomes in times of crises, in line with the Protection of Wages Convention, 1949 (No. 95).

Labour administration

67. The importance of labour administrations in ensuring an effective governance on labour matters became particularly evident during the COVID-19 pandemic. Labour administrations play a central

role in addressing inequalities in the world of work and in creating the enabling legal and policy framework to achieve social justice through decent work.

- 68.** In this regard, the Committee welcomes the Governing's Body decision,²² in November 2021, to have a General Survey on the Labour Administration Convention (No. 150) and Recommendation (No. 158), 1978, and invites governments, employers' and workers' organizations to provide information for the preparation of the General Survey. The General Survey will be an opportunity to provide a comprehensive overview of the impact of the COVID-19 crisis on national systems of labour administration across the world and illustrate the central role they have played in managing the immediate response to the crisis and in planning and implementing the longer-term recovery, in consultation with the social partners. The Committee also notes that the General Survey on labour administration will constitute a concrete follow-up to the Global Call to Action for a Human-centred Recovery from the COVID-19 crisis and an opportunity to take stock of and help to strengthen the capacity of public administrations and employers' and workers' organizations to participate in social dialogue as the means to develop and implement regional, national, sectoral and local recovery strategies, policies and programmes.

Labour inspection

- 69.** As a core function of labour administration, labour inspection systems play an important role in the implementation of national labour policies, and in the provision of information and advice to employers and workers on applicable labour legislation, as well as in securing its enforcement. The COVID-19 pandemic raised awareness on the importance of compliance with labour laws, including OSH standards, for achieving decent work. However, policies to reduce public spending have in many cases affected the resources allocated to labour inspectorates. This year the Committee notes that, in a number of countries, there has been a decrease in the number of labour inspectors and in the material means allocated to labour inspectorates. In some countries, restrictions on public spending affected the conditions of service of labour inspectors, leading to temporary appointments of inspectors or delaying the adoption of regulations ensuring their stability of employment.
- 70.** In addition, the Committee notes that while restrictions to on-site visits introduced during the pandemic have mostly been lifted, in certain cases, they resulted in a backlog of complaints and delays in their examination. On the other hand, the increased use of information technology tools due to restrictions on the ability to be physically present in workplaces, allowed for significant improvements with respect to the capacity of inspectorates to collect, analyse and publish data.
- 71.** The Committee also notes the challenges faced by labour inspectors in ensuring the enforcement of legal provisions in a changing world of work. Rising job insecurity, increased stress at work, greater risk of harassment and violence at work, growth in the informal economy and changes to migration patterns are some of the issues that labour inspectors are confronted with in performing their duties.
- 72.** The Committee reaffirms that labour inspection is a vital public function at the core of promoting and enforcing decent working conditions and respect for fundamental principles and rights at work, thereby contributing significantly to social cohesion. Labour inspectorates are instrumental in ensuring the respect of the rule of law and equal access to justice for all.

²² GB.343/LILS/2/Decision, Governing Body, 343rd Session (November 2021).

Seafarers and fishers

73. The Committee has noted with deep concern the challenges and the impact that measures adopted by governments around the world to contain the spread of the COVID-19 pandemic has had on the protection of seafarers' and fishers' rights as enshrined in the Maritime Labour Convention, 2006, as amended (MLC, 2006) and the Work in Fishing Convention, 2007 (No. 188). As several of such restrictions continue to jeopardize seafarers' rights to shore leave and access to medical care, the Committee has continued to request ratifying countries to ensure that any remaining restrictions are lifted in order to guarantee full compliance with the MLC, 2006. In this regard, the Committee has indicated that it is precisely at times of crisis that the protective coverage of the MLC, 2006, assumes its full significance and needs to be most scrupulously applied. This is even more so as the Convention contains only minimum standards for the protection of seafarers' rights.
74. In this regard, the Committee acknowledges all the efforts of the Office to support the maritime industry during the pandemic, as recognized and reflected in the conclusions of the [independent high-level evaluation of the ILO's response to the pandemic](#).²³ The evaluation highlights that the ILO's interventions to reinforce international labour standards, in collaboration with the tripartite partners and UN agencies, had a significant impact on immediate and longer-term protection of seafarers. The report recalls that the seafarers' situation was the focus of a general observation of the Committee in its December 2020 session which expressed in strong terms that Member States have breached their obligations in denying seafarers their rights to access medical attention and disembarkation rights. This general observation was welcomed by the industry and widely quoted in the press. The Committee notes that interviewed stakeholders of the Special Tripartite Committee of the MLC, 2006 (STC) were unanimously impressed with how quickly and flexibly the ILO responded to the sudden needs, through the adaptation of the supervisory mechanisms of international labour standards, convening consultative processes, and direct international facilitation efforts at the request of the social partners.
75. The current situation in Ukraine since 24 February 2022 has created new dire circumstances for seafarers. The Committee notes that 10 months after of the beginning of the crisis, 65 ships flying the flags of more than 20 countries with around 315 seafarers on board are still stranded in Ukrainian ports, unable to depart safely. Seafarers working on board ships under the [Black Sea Grain Initiative](#) are risking their lives by sailing in mined waters thereby contributing to stave off famine and stabilize food prices. The Committee acknowledges their courage and underlines the fundamental importance of preserving seafarers' rights as enshrined in the MLC, 2006.

Looking ahead: A hopeful message

76. The launching of a Global Coalition for Social Justice constitutes a message of hope for the women and men facing stark realities in times of crisis. Placing emphasis on those at risk of being left behind, the Committee will continue to monitor developments in the application of international labour standards in order to prevent and mitigate regression in the full respect of labour rights in this context. The guidance provided through the ILO supervisory machinery, which impartially monitors the fulfilment of international commitments, ensuring accountability and assessing progress with the benefit of social partner input, is crucial for all countries faced with or anticipating crises in their diverse and interlocking forms.

²³ ILO, High-level independent evaluation of ILO's COVID-19 response (2020–22), Geneva, 2022, table 8, pp. 107 and 108 (in English only).

77. The most vulnerable include not only population groups within countries, but also the least developed countries (LDCs) among others. The Committee welcomes the ILO strategy to engage in stronger multilateral coordination and cooperation, including with international financial institutions and other relevant organizations, through the Global Coalition for Social Justice. It appeals to international solidarity with a view to placing trade relations, investment incentives and development partnerships, solidly founded on respect for labour rights as human rights, at the heart of policies promoting recovery and shared prosperity, notably when it comes to LDCs. It recalls that, as emphasized in the Committee's 2020 report, in the context of the COVID-19 pandemic, "every effort should be made to prevent a downward spiral in labour conditions and pursue a virtuous cycle of recovery and development with the support of the Office and development partners fully respecting rights at work."²⁴
78. The Committee trusts that the quest for a new social contract through a Global Coalition for Social Justice will rely on international labour standards and their supervision as a compass out of protracted and interlocking crises and towards sustainable development in an open global economy. It expresses the firm hope that the Coalition will mobilize a wide range of partnerships leading to concrete progress in the effective exercise of labour rights at country level. The Committee trusts that it will be able to observe such progress in the near future through its regular supervision of the application of international labour standards.

²⁴ Report III (Part A), ILC, 109th Session, 2021, General Report, para. 49.

► II. Compliance with standards-related obligations

A. Reports on ratified Conventions (articles 22 and 35 of the Constitution)

79. The Committee's principal task consists of the examination of the reports supplied by governments on Conventions that have been ratified by Member States (article 22 of the Constitution) and that have been declared applicable to non-metropolitan territories (article 35 of the Constitution).

Reporting arrangements

80. In accordance with the decision taken by the Governing Body at its 258th Session (November 1993), the reports due on ratified Conventions should be sent to the Office between **1 June and 1 September** of each year.
81. The Committee recalls that detailed reports should be sent in the case of first reports (a first report is due after ratification) or when specifically requested by the Committee of Experts or the Conference Committee. In all other cases, simplified reports are requested on a regular basis.²⁵
82. The Committee also recalls that, at its 306th Session (November 2009), the Governing Body decided to increase from two to three years the regular reporting cycle for the fundamental and governance Conventions. At its 334th Session (October–November 2018) the Governing Body decided to increase the reporting cycle from five to six years for all other Conventions. In certain cases, reports may be requested outside of the regular reporting cycle.²⁶

Compliance with reporting obligations

83. This year a total of 2,103 reports (1,915 reports under article 22 of the Constitution and 188 reports under article 35 of the Constitution) were requested from governments on the application of Conventions ratified by Member States, compared to 2,008 reports last year. At the end of the present session of the Committee, 1,490 reports were received by the Office, corresponding to

²⁵ In 1993, a distinction was made between detailed and simplified reports. As explained in the report forms, in the case of simplified reports, information need normally be given only on the following points: (a) any new legislative or other measures affecting the application of the Convention; (b) replies to the questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations; and (c) replies to comments by the supervisory bodies. At its 334th Session, the Governing Body adopted a new report form to facilitate reporting by governments when they are expected to provide simplified reports (GB.334/INS/5).

²⁶ There are several ways in which a report can be requested outside of the regular reporting cycle: (i) the Committee can place a special request in a footnote at the end of a comment for a report to be sent earlier than the year it is due according to the reporting cycle (see General Report, para. 112); (ii) an "automatic" request is sent when the government has failed to send a report in the framework of the regular reporting cycle or the report sent did not contain an answer to the Committee's comments. If a government has failed to send a report for a number of years, the case is singled out in Part II (section I) of this report and examined every year by the Conference Committee during its discussion on serious failures to fulfil reporting obligations; (iii) the Conference Committee can ask a government to submit a report to the Committee of Experts outside of the reporting cycle following the examination of an individual case and when it discusses the cases of serious failure to report; (iv) the Governing Body may ask a government to send a report to the Committee of Experts outside of the reporting cycle based on the recommendations of tripartite committees established to examine representations under article 24 of the ILO Constitution or the recommendations of Commissions of Inquiry established to examine complaints under article 26 of the ILO Constitution.

70.9 per cent of the reports requested.²⁷ Last year, the Office received a total of 1,357 reports, representing 67.6 per cent of reports requested. The Committee notes in particular that 45 of the 67 first reports due on the application of ratified Conventions were received by the time the Committee's session ended (last year, 65 of the 111 first reports due had been received).

84. The Committee observes that the levels of reports received after the due date of 1 September remained the same as last year. In particular, 862 reports were received by the due date of 1 September this year, representing 41.0 per cent of reports requested, compared with 841 reports received at the previous session, representing 41.9 per cent of reports requested. Out of 2,103 reports due this year, 1,241 (59.0 per cent) were received after the deadline. The Committee wishes to recall that late submission of reports disturbs the sound operation of the supervisory mechanism as the examination of a number of reports received after the deadline might be deferred due to their late arrival. The examination of some of these reports in subsequent Committee sessions prevents the experts from fully focusing on the specific thematic areas due for discussion each year and also prevents governments and the social partners from obtaining timely feedback on their reports.
85. The Committee would like to express its appreciation to the Member States which made special efforts to ensure compliance with their reporting obligations. ***It asks all Member States to make every effort to send the reports due under articles 19, 22 and 35 of the ILO Constitution, to do so within the deadlines and to submit complete answers to the Committee's requests so as to allow for a thorough examination by the Committee.***
86. The Committee recalls that ILO technical assistance is available to help Member States comply with their constitutional obligations and asks the Office to provide every support in this regard. It urges those Member States who have received Office assistance to make special efforts to ensure timely submission of their reports.
87. When examining the failure by Member States to respect their reporting obligations, the Committee adopts "general" comments (contained at the beginning of Part II (section I) of this report). It makes general observations when none of the reports due have been sent for two or more years; or when a first report has not been sent for two or more years. It makes a general direct request when, in the current year, a country has not sent the reports due, or the majority of reports due; or it has not sent a first report due.
88. Furthermore, as of 2017 the Committee gradually introduced a practice of urgent appeals according to which it may examine how a Convention is implemented in a ratifying country on the basis of information at its disposal if the Government has failed to submit a first report after ratification. As of 2018, the practice of urgent appeals was extended to all reports for which comments were pending for more than three years. In 2020, the Committee issued for the first time urgent appeals in repetitions of previous comments with an introductory text²⁸ informing the government that if no report is supplied in time for examination by the Committee at its next session, then the Committee may proceed with the examination of the application of the Convention on the basis of information at its disposal.

²⁷ Appendix I to this Report provides an indication by country of whether the reports requested (under articles 22 and 35 of the Constitution) have been registered or not by the end of the meeting of the Committee. Appendix II shows, for the reports requested under article 22 of the Constitution, for each year since 1932, the number and percentage of reports received by the prescribed date, by the date of the meeting of the Committee of Experts and by the date of the session of the International Labour Conference.

²⁸ The introductory text ("chapeau") now reads: The Committee notes with **deep concern** that the Government's report has not been received. It expects that the next report will contain full information on the matters raised in its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

89. This year, the Committee examined the following cases in the absence of a government report following an urgent appeal.

List of cases in which the application of ratified Conventions was examined at the Committee's session following an urgent appeal and in the absence of a report	
State	Conventions Nos
Afghanistan	100 and 111
Albania	MLC, 2006
Barbados	100 and 111
Congo	100, 105, 111 and 188
Grenada	100 and 111
Lebanon	29, 81, 100, 105, 111 and 150
Somalia	29
Uganda	105*

* A report was received that did not contain a response to the previous comments.

90. Based on the information provided in the "general" comments (Part II, section I of the report), none of the reports due have been sent for the past two or more years from the following 16 countries: **Afghanistan, Antigua and Barbuda, Chad, Comoros, Dominica, Gabon, Haiti, Lebanon, Saint Lucia, Slovenia, Somalia, Syrian Arab Republic, Timor-Leste, Tuvalu, Vanuatu and Yemen.** *The Committee urges the Governments concerned to make every effort to supply the reports requested on ratified Conventions.*
91. Moreover, the Committee launches an urgent appeal to the Member States that have failed to submit a report for more than three years, drawing their attention to the fact that if the reports due are not received in time for examination by the Committee at its next session, it may proceed to examine the application of the Conventions concerned on the basis of public information at its disposal. This year, the Committee launches an urgent appeal in its repetitions of previous comments to which a reply has not been received, requesting the following countries to submit a report with replies to the Committee's comments at its next session:

Urgent appeals launched in repetitions of pending comments	
State	Conventions Nos
Afghanistan	140, 141, 142 and 144
Antigua and Barbuda	87, 135, 144 and 151
Barbados	87, 105, 122, 135 and 144
Belize	140 and 144
Chad	87, 105, 138 and 182
Congo	98, 144 and 149
Dominica	87, 94, 144 and 147
Equatorial Guinea	68/92, 87, 98 and 100
Grenada	105, 138, 144 and 182
Haiti	1/14/30/106
Kiribati	MLC, 2006

Urgent appeals launched in repetitions of pending comments	
State	Conventions Nos
Lebanon	88, 122, 138, 142, 159, 172 and 182
Papua New Guinea	29, 98, 122 and 158
Saint Lucia	87, 98, 108 and 158
South Sudan	98, 105, 138 and 182
Syrian Arab Republic	29, 105, 138 and 182
Tajikistan	103, 105 and 149
Tuvalu	MLC, 2006
Uganda	26/95, 94, 138 and 182
Vanuatu	182

92. In addition, the Committee launches an urgent appeal to the following governments to submit reports due for more than three years, in the absence of any pending comments and draws to their attention that if the reports due are not received in time for examination by the Committee at its next session, it may proceed to examine the application of the Conventions concerned on the basis of public information at its disposal.

Urgent appeals for reports on which no comments are pending	
State	Conventions Nos
Albania	185
Antigua and Barbuda	11, 98 and 154
Barbados	172
Dominica	11, 22, 98 and 108
Haiti	45, 90, 105 and 107
Jordan	142
Kiribati	111
Lao People's Democratic Republic	6
Lesotho	135
Saint Lucia	11, 12, 94, 97 and 105
Somalia	17, 19, 22, 23, 45, 84, 85, 94, 95, 105 and 111
Tajikistan	124
Vanuatu	29, 105 and 185
Yemen	19, 58, 81 and 185

93. In relation to first reports, the Committee notes that 9 countries have failed to supply a first report for two or more years:

State	Conventions Nos
Cook Islands	– Since 2021: MLC, 2006
Grenada	– Since 2021: MLC, 2006 and Convention No. 189
Lebanon	– Since 2021: MLC, 2006
Marshall Islands	– Since 2021: Convention No. 182
North Macedonia	– Since 2021: Conventions Nos 141 and 171
Sudan	– Since 2021: MLC, 2006
Tuvalu	– Since 2021: Convention No. 182
United Kingdom of Great Britain and Northern Ireland (Falkland Islands (Malvinas))	– Since 2021: MLC, 2006
Vanuatu	– Since 2021: Convention No. 138

94. The Committee urges the governments concerned to make a special effort to supply the first reports due. The Committee, like the Conference Committee, emphasizes the particular importance of first reports, which provide the basis on which the Committee makes its initial assessment of the application of the specific Conventions concerned. The Committee is aware that, where no reports have been sent for some time, it is likely that administrative or other problems are at the origin of the difficulties encountered by governments in fulfilling their constitutional obligations. The COVID-19 pandemic and parallel interlocking crises have been additional factors aggravating such difficulties.
95. The Committee would like to express its appreciation to the governments which submitted three first reports this year following an urgent appeal.²⁹ It recalls the importance for governments to request assistance from the Office, and for such assistance to be provided rapidly, for the preparation of first reports.
96. The Committee is pleased to note that this year, all countries provided information concerning communication of reports to workers' and employers' organizations in all or the majority of their reports, thereby enabling representative organizations of employers and workers to participate fully in the supervision of the application of international labour standards in accordance with the tripartite nature of the ILO.

Replies to the comments of the Committee

97. Governments are requested to reply in their reports to the observations and direct requests made by the Committee.
98. This year, no information has been received as regards all or most of the observations and direct requests of the Committee to which a reply was requested for the following countries: **Afghanistan, Albania, Antigua and Barbuda, Argentina, Barbados, Burundi, Central African Republic, Chad, Comoros, Congo, Croatia, Dominica, El Salvador, Equatorial Guinea, Gabon, Grenada, Guyana, Haiti, Iraq, Kenya, Lao Peoples' Democratic Republic, Lebanon, Liberia, Libya, Malta, Mongolia, Montenegro, Netherlands (Aruba), North Macedonia, Papua New**

²⁹ Guinea (Convention No. 167), Sao Tome and Principe (Convention No. 183) and Tunisia (MLC, 2006).

Guinea, Romania, Saint Lucia, Samoa, Sao Tome and Principe, Singapore, Slovenia, Somalia, South Sudan, Syrian Arab Republic, Tajikistan, Timor-Leste, Tuvalu, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland (Falkland Islands (Malvinas), Guernsey and Jersey), Vanuatu and Yemen.

99. The Committee notes with **concern** that the number of comments to which replies have not been received remains significantly high. The Committee underlines that the value attached by ILO constituents to the dialogue with the supervisory bodies on the application of ratified Conventions is considerably diminished by the failure of governments to fulfil their obligations in this respect. ***The Committee urges the countries concerned to provide all the information requested and recalls that they may avail themselves of the technical assistance of the Office in this regard.***

Follow-up to cases of serious failure by Member States to fulfil reporting obligations mentioned in the report of the Committee on the Application of Standards

100. As the functioning of the supervisory system is based primarily on the information provided by governments in their reports, both the Committee and the Conference Committee considered that failure by Member States to fulfil their obligations in this respect has to be given the same level of attention as non-compliance relating to the application of ratified Conventions. The two Committees have therefore decided to strengthen, with the assistance of the Office, the follow-up given to these cases of failure.
101. The Committee welcomes the fruitful collaboration that it maintains with the Conference Committee on this matter of mutual interest which is essential to the proper discharge of their respective tasks. It asks the Office to maintain the sustained technical assistance that it has been providing to Member States in this respect.

B. Examination by the Committee of Experts of reports on ratified Conventions

102. In examining the reports received on ratified Conventions and Conventions declared applicable to non-metropolitan territories, in accordance with its practice, the Committee assigned to each of its members the initial responsibility for a group of Conventions. The members submit their preliminary conclusions on the instruments for which they are responsible to the Committee in plenary sitting for discussion and approval. Decisions on comments are adopted by consensus.
103. The Committee wishes to inform Member States that it examined all reports that were brought to its attention.

Observations and direct requests

104. First of all, the Committee considers that it is worthy of note that in 268 cases it has found, following examination of the corresponding reports, that no further comment was called for regarding the manner in which a ratified Convention had been implemented.
105. In other cases, however, the Committee has found it necessary to draw the attention of the governments concerned to the need to take further action to give effect to certain provisions of Conventions or to supply additional information on given points. As in previous years, its comments have been drawn up in the form of either "observations", which are reproduced in the

report of the Committee, or “direct requests”, which are not published in the Committee’s report, but are communicated directly to the governments concerned and are available online.³⁰

- 106.** Observations are generally used in more serious or long-standing cases of failure to fulfil obligations. They point to important discrepancies between the obligations under a Convention and the related law and/or practice of Member States. They may address the absence of measures to give effect to a Convention or to take appropriate action following the Committee’s requests. They may also highlight progress, as appropriate. Direct requests allow the Committee to be engaged in a continuing dialogue with governments often when the questions raised are primarily of a technical nature. They can also be used for the clarification of certain points when the information available does not enable a full appreciation of the extent to which the obligations are fulfilled. Direct requests are also used to examine the first reports supplied by governments on the application of Conventions.
- 107.** This year, the Committee made 656 observations and 1,263 direct requests. The Committee’s observations appear in Part II of this report, together with, for each subject, a list of direct requests. An index of all observations and direct requests, classified by country, is provided in Appendix VII to the report.

Follow-up to the conclusions of the Committee on the Application of Standards

- 108.** The Committee examines the follow-up to the conclusions of the Committee on the Application of Standards as this information forms an integral part of the Committee’s dialogue with the governments concerned. This year, the Committee has examined the follow-up to the conclusions adopted by the Committee on the Application of Standards during the last session of the International Labour Conference (110th Session, May–June 2022) in the following cases:

List of cases in which the Committee has examined the follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)		
State	Conventions Nos	Page
Azerbaijan	105	349
Belarus	87	114
Benin	182	427
Central African Republic	182	446
China	111	604
Ecuador	87	128
El Salvador	144	700
Fiji	105	376
Guatemala	87	143
Hungary	98	152
Iraq	98	159
Kazakhstan	87	171

³⁰ Observations and direct requests are accessible through the NORMLEX database, on the ILO website (www.ilo.org/normes).

List of cases in which the Committee has examined the follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)		
State	Conventions Nos	Page
Liberia	87	177
Malawi	111	640
Malaysia	98	183
Netherlands – Sint Maarten	87	192
Nicaragua	87	193
Nigeria	26/95	854
Solomon Islands	182	559

Follow-up of representations under article 24 of the Constitution and complaints under article 26 of the Constitution

- 109.** In accordance with the established practice, the Committee also examines the measures taken by governments pursuant to the recommendations of tripartite committees (set up to examine representations under article 24 of the Constitution) and commissions of inquiry (set up to examine complaints under article 26 of the Constitution). The corresponding information forms an integral part of the Committee's dialogue with the governments concerned. The Committee considers it useful to indicate more clearly the cases in which it follows up on the effect given to the recommendations made under these constitutional supervisory procedures, as indicated in the following tables.

List of cases in which the Committee has examined the measures taken by governments to give effect to the recommendations of commissions of inquiry (complaints under article 26)	
State	Conventions Nos
Belarus	87
Bolivarian Republic of Venezuela	26, 95, 87 and 144
Zimbabwe	87 and 98

List of cases in which the Committee has examined the measures taken by governments to give effect to the recommendations of tripartite committees (representations under article 24)	
State	Conventions Nos
France	158
Türkiye	87

- 110.** In addition, the Committee examined measures taken by the Government of Bangladesh in the context of Governing Body discussions on an article 26 complaint concerning alleged non-

observance of Conventions Nos 81, 87 and 98 which has not yet led to the establishment of a Commission of Inquiry.

Follow-up given to legislative aspects referred by the Committee on Freedom of Association

- 111.** In accordance with established practice, the Committee also examines the legislative aspects referred to it by the Committee on Freedom of Association. At the latter's request, the Committee decided to indicate these cases in the following table.

List of cases in which the Committee has examined the follow-up given to legislative aspects referred to it by the Committee on Freedom of Association		
State	Conventions Nos	Page
Brazil	98	123
Jordan	98	165
Malaysia	98	183
Pakistan	87 and 98	199 and 206
Panama	87	208
Russian Federation	87	251
Türkiye	98	295

Special notes

- 112.** As in the past, the Committee has indicated by special notes (traditionally known as "footnotes") at the end of its comments the cases in which, because of the nature of the problems encountered in the application of the Conventions concerned, it has deemed it appropriate to ask the government to supply a report earlier than would otherwise have been the case and, in some instances, to supply full particulars to the Conference at its next session in June 2023.
- 113.** In order to identify cases for which it inserts special notes, the Committee uses the basic criteria described below, while taking into account the following general considerations. First, the criteria are indicative. In exercising its discretion in the application of the criteria, the Committee may also have regard to the specific circumstances of the country and the length of the reporting cycle. Second, the criteria are applicable to cases in which an earlier report is requested, often referred to as a "single footnote", as well as to cases in which the government is requested to provide detailed information to the Conference, often referred to as a "double footnote". The difference between these two categories is one of degree. Third, a serious case otherwise justifying a special note to provide full particulars to the Conference (double footnote) might only be given a special note to provide an early report (single footnote) when there has been a recent discussion of the case in the Conference Committee. Finally, the Committee wishes to point out that it exercises restraint in its recourse to "double footnotes" in deference to the Conference Committee's decisions as to the cases it wishes to discuss.
- 114.** The criteria to which the Committee has regard are the following:
- the seriousness of the problem; in this respect, the Committee emphasizes that an important consideration is the necessity to view the problem in the context of a particular Convention and to take into account matters involving fundamental rights, workers' health, safety and

well-being, as well as any adverse impact, including at the international level, on workers and other categories of protected persons;

- the persistence of the problem;
- the urgency of the situation; the evaluation of such urgency is necessarily case specific, according to standard human rights criteria, such as life-threatening situations or problems where irreversible harm is foreseeable; and
- the quality and scope of the government's response in its reports or the absence of response to the issues raised by the Committee, including cases of clear and repeated refusal on the part of a State to comply with its obligations.

115. In addition, the Committee wishes to emphasize that its decision not to double footnote a case which it has previously drawn to the attention of the Conference Committee in no way implies that it has considered progress to have been made therein.

116. At its 76th Session (November–December 2005), the Committee decided that the identification of cases in respect of which a government is requested to provide detailed information to the Conference would be a two-stage process: first, the expert initially responsible for a particular group of Conventions recommends to the Committee the insertion of special notes; second, in light of all the recommendations made, the Committee will, after discussion, take a final, collegial decision once it has reviewed the application of all the Conventions.

117. This year, the Committee has requested governments to supply full particulars to the Conference at its next session in 2023 in the following cases:

List of the cases in which the Committee has requested governments to supply full particulars to the Conference at its next session in June 2023	
State	Conventions Nos
Afghanistan	111
Nicaragua	87 and 111
Cambodia	105
Lebanon	29
Nigeria	182

118. In addition, the Committee has requested a full reply to its comments outside of the reporting cycle in the following cases:

List of the cases in which the Committee has requested a full reply to its comments outside of the reporting cycle	
State	Conventions Nos
Albania	MLC, 2006
Argentina	MLC, 2006
Bangladesh	81, 107 and MLC, 2006
Benin	143
Brazil	MLC, 2006
Cameroon	13/45/162 and 162
Chile	1/14/30 and 103
Colombia	81/129

List of the cases in which the Committee has requested a full reply to its comments outside of the reporting cycle	
State	Conventions Nos
Congo	188
Côte d'Ivoire	13/45/136/155/161/170/187
Ecuador	45/119/136/139/148/162, 103 and 115/148/162
Guatemala	87
Guyana	151
Jordan	98 and 135
Kyrgyzstan	81
Libya	103
Malawi	155/184/187
Marshall Islands	MLC, 2006
Netherlands	102/121/128/130 and 121
New Zealand	MLC, 2006
Nicaragua	12/17/18/19/24/25, 144 and MLC, 2006
Russian Federation	87
South Africa	87
Sudan	98
Tunisia	87
Türkiye	87 and 98
United Kingdom of Great Britain and Northern Ireland – British Virgin Islands	MLC, 2006
United Republic of Tanzania	MLC, 2006
Uzbekistan	87
Bolivarian Republic of Venezuela	13/45/120/127/139/155, 26/95 and 155
Zambia	87

Cases of progress

- 119.** Following its examination of the reports supplied by governments, and in accordance with its standard practice, the Committee refers in its comments to cases in which it expresses its **satisfaction** or **interest** at the progress achieved in the application of the respective Conventions. The Committee wishes to emphasize that progress by Member States is a valuable aspect of its review under the supervisory system and is cognisant of the need to continue to address these matters in its Subcommittee on working methods.
- 120.** At its 80th and 82nd Sessions (2009 and 2011), the Committee made the following clarifications on the general approach developed over the years for the identification of cases of progress:
- (1) The expression by the Committee of interest or satisfaction does not mean that it considers that the country in question is in general conformity with the Convention, and in the same

comment **the Committee may express its satisfaction or interest at a specific issue while also expressing regret concerning other important matters** which, in its view, have not been addressed in a satisfactory manner.

- (2) The Committee wishes to emphasize that **an indication of progress is limited to a specific issue related to the application of the Convention and the nature of the measures adopted by the government concerned.**
- (3) The Committee exercises its discretion in noting progress, taking into account the particular nature of the Convention and the specific circumstances of the country.
- (4) The expression of progress can refer to different kinds of measures relating to national legislation, policy or practice.
- (5) If the satisfaction relates to the adoption of legislation, the Committee may also consider appropriate follow-up measures for its practical application.
- (6) In identifying cases of progress, the Committee takes into account both the information provided by governments in their reports and the comments of employers' and workers' organizations.

121. Since first identifying cases of satisfaction in its report in 1964,³¹ the Committee has continued to follow the same general criteria. The Committee expresses *satisfaction* in cases in which, **following comments it has made on a specific issue, governments have taken measures through either the adoption of new legislation, an amendment to the existing legislation or a significant change in the national policy or practice, thus achieving fuller compliance with their obligations under the respective Conventions.** In expressing its satisfaction, the Committee indicates to governments and the social partners that it considers the specific matter resolved. The reason for identifying cases of satisfaction is twofold:

- to place on record the Committee's appreciation of the positive action taken by governments in response to its comments; and
- to provide an example to other governments and social partners which have to address similar issues.

122. Details concerning these cases of progress are found in Part II of this report and cover **34** instances in which measures of this kind have been taken in **26** countries. The full list is as follows:

List of the cases in which the Committee has been able to express its satisfaction at certain measures taken by the Governments of the following countries	
State	Conventions Nos
Algeria	87
Australia	182
Bahrain	111
Brazil	81
Cambodia	138
Colombia	162/167/170/174
Djibouti	100
Eswatini	182

³¹ Report of the Committee of Experts submitted to the 48th Session (1964) of the International Labour Conference, para. 16.

List of the cases in which the Committee has been able to express its satisfaction at certain measures taken by the Governments of the following countries	
State	Conventions Nos
Ethiopia	138
Guinea	138
Hungary	98
Kiribati	87
Liberia	105
Malawi	138 and 182
Malaysia	138 and 182
Mali	138
Mauritania	182
Nepal	182
Pakistan	87
Peru	98 and 151
Poland	98
Sao Tome and Principe	138
Spain	87 and 98
Togo	87 and 98
United Kingdom of Great Britain and Northern Ireland – Montserrat	87
Uzbekistan	100

- 123.** Thus the total number of cases in which the Committee has been led to express its **satisfaction** at the progress achieved following its comments has risen to **3,195** since the Committee began listing them in its report.
- 124.** Within cases of progress, the distinction between cases of satisfaction and cases of interest was formalized in 1979.³² In general, cases of **interest** cover **measures that are sufficiently advanced to justify the expectation that further progress would be achieved in the future and regarding which the Committee would want to continue its dialogue with the government and the social partners**. The Committee's practice has developed to such an extent that cases in which it expresses interest may encompass a variety of measures. The paramount consideration is that the measures contribute to the overall achievement of the objectives of a particular Convention. This may include:
- draft legislation that is before parliament, or other proposed legislative changes forwarded or available to the Committee;
 - consultations within the government and with the social partners;
 - new policies;

³² Report of the Committee of Experts submitted to the 65th Session (1979) of the International Labour Conference, para. 122.

- the development and implementation of activities within the framework of a technical cooperation project or following technical assistance or advice from the Office;
- judicial decisions, according to the level of the court, the subject matter and the force of such decisions in a particular legal system, would normally be considered as cases of interest unless there is a compelling reason to note a particular judicial decision as a case of satisfaction; or
- the Committee may also note as cases of interest the progress made by a state, province or territory in the framework of a federal system.

125. Details concerning the cases in question are found either in Part II of this report or in the requests addressed directly to the governments concerned, and include **229** instances in which measures of this kind have been adopted in **103** countries. The full list is as follows:

List of the cases in which the Committee has been able to **note with interest** certain measures taken by the Governments of the following countries

State	Conventions Nos
Algeria	111 and 122
Angola	107 and 144
Argentina	29
Australia	29
Austria	122
Azerbaijan	122
Bahrain	111
Bangladesh	81, 111 and MLC, 2006
Belgium	111, 122 and 156
Belize	138
Benin	81
Bosnia and Herzegovina	111
Botswana	105
Brazil	29, 97, 111 and 182
Bulgaria	111, 122 and 156
Burkina Faso	122
Cabo Verde	17/19/102/118, 29, 144, 182 and MLC, 2006
Cambodia	122 and 182
Cameroon	13
Canada	122 and 138
Chile	63, 115, 122, 140 and 159
China	111 and 159
China – Hong Kong Special Administrative Region	3 and 122
China – Macau Special Administrative Region	88 and 122

List of the cases in which the Committee has been able to **note with interest** certain measures taken by the Governments of the following countries

State	Conventions Nos
Colombia	13/162, 88 and 111
Cook Islands	144
Costa Rica	88, 111, 120/127/148, 156 and 159
Côte d'Ivoire	3, 155/187 and 159
Cuba	88
Cyprus	81, 122, 155/187 and 159
Czechia	88, 96, 122, 159 and 181
Denmark	111, 122 and 142
Denmark – Greenland	122
Djibouti	88, 100 and 111
Dominican Republic	122 and 138
Ecuador	87, 102/121/128/130, 111, 122 and 142
Egypt	2, 111 and 159
Estonia	2
Eswatini	138
Ethiopia	158 and 182
Fiji	122 and 159
Finland	81/129, 94, 121/128/130/168 and 140
France	140, 142, 159 and 181
France – French Polynesia	82, 88, 115 and 122
France – New Caledonia	82, 122 and 142
Gambia	MLC, 2006
Georgia	144
Ghana	149 and 182
Greece	144
Guatemala	122, 144 and 182
Guinea	140, 182 and 189
Guinea-Bissau	138
Guyana	149 and 189
Honduras	144
Hungary	81/129, 122, 142 and 144
India	MLC, 2006
Iraq	122 and 172
Ireland	144 and 189
Italy	189

List of the cases in which the Committee has been able to **note with interest** certain measures taken by the Governments of the following countries

State	Conventions Nos
Jamaica	189
Jordan	98
Kenya	98 and MLC, 2006
Kyrgyzstan	122, 144 and 159
Latvia	144 and MLC, 2006
Lithuania	115, 144 and 160
Luxembourg	158
Madagascar	151
Malawi	111, 138 and 182
Malaysia	29
Mauritania	29
Mauritius	160
Mexico	144 and 160
Morocco	162
Mozambique	144
Namibia	151
Nepal	144 and 182
Netherlands	115 and 144
New Zealand	160
Niger	81, 122 and 155/187
Nigeria	88 and 144
North Macedonia	98
Pakistan	87, 98, 100, 107 and 111
Panama	110
Paraguay	111 and 169
Peru	98
Philippines	97, 111 and 151
Poland	135 and 188
Portugal	189
Qatar	111
Republic of Korea	144
Republic of Moldova	160
Russian Federation	111
Rwanda	29, 87, 100, 105 and 144
Saint Kitts and Nevis	100

List of the cases in which the Committee has been able to note with interest certain measures taken by the Governments of the following countries	
State	Conventions Nos
San Marino	156
Sao Tome and Principe	138
Serbia	156
Seychelles	149
South Africa	111
Spain	98, 135 and 151
Sri Lanka	110
Turkmenistan	144
United Kingdom of Great Britain and Northern Ireland	188
Uruguay	87
Uzbekistan	100 and 144
Bolivarian Republic of Venezuela	87
Zambia	96 and 181
Zimbabwe	111

Practical application

126. As part of its assessment of the application of Conventions in practice, the Committee notes the information contained in governments' reports, such as information relating to judicial decisions, statistics and labour inspection. The supply of this information is requested in almost all report forms, as well as under the specific terms of some Conventions. In the context of the COVID-19 pandemic and the interlocking crises that followed, such information is indispensable to complete the examination of national legislation and to help the Committee identify the issues arising from real problems of application in practice. The Committee wishes to emphasize to governments the importance of submitting such information and also encourages employers' and workers' organizations to submit clear and up-to-date information on the application of Conventions in practice.

Observations made by employers' and workers' organizations

127. At each session, the Committee recalls that the contribution by employers' and workers' organizations is essential for the Committee's evaluation of the application of Conventions in national law and in practice. Member States have an obligation under article 23, paragraph 2, of the Constitution to communicate to the representative employers' and workers' organizations copies of the reports supplied under articles 19 and 22 of the Constitution. Compliance with this constitutional obligation is intended to enable organizations of employers and workers to participate fully in the supervision of the application of international labour standards. In some cases, governments transmit the observations made by employers' and workers' organizations with their reports, sometimes adding their own comments. However, in the majority of cases, observations from employers' and workers' organizations are sent directly to the Office which, in

accordance with the established practice, transmits them to the governments concerned for comment, so as to ensure respect for due process. For reasons of transparency, the record of all observations received from employers' and workers' organizations on the application of ratified Conventions since the last session of the Committee is included as Appendix III to its report. Where the Committee finds that the observations are not within the scope of the Convention or do not contain information that would add value to its examination of the application of the Convention, it will not refer to them in its comments. Otherwise, the observations received from employers' and workers' organizations may be considered in an observation or in a direct request, as appropriate.

In a reporting year

- 128.** At its 86th Session (2015), the Committee made the following clarifications on the general approach developed over the years for the treatment of observations from employers' and workers' organizations. The Committee recalled that, **in a reporting year**, when observations from employers' and workers' organizations are not provided with the government's report, they should be received by the Office by 1 September at the latest, so as to allow the government concerned to have a reasonable time to respond, thereby enabling the Committee to examine, as appropriate, the issues raised at its session the same year. When observations are received after 1 September, they would not be examined in substance in the absence of a reply from the government, except in exceptional cases. Over the years, the Committee has identified exceptional cases as those where the allegations are sufficiently substantiated and there is an urgent need to address the situation, whether because they refer to matters of life and death or to fundamental human rights or because any delay may cause irreparable harm. In addition, observations referring to legislative proposals or draft laws may also be examined by the Committee in the absence of a reply from the government, where this may be of assistance for the country at the drafting stage.

Outside of a reporting year

- 129.** At its 88th Session (2017), following its consideration of the Governing Body's review of the reporting cycle for technical Conventions from five to six years, the Committee indicated its willingness to consider the manner in which it might broaden the very strict criteria for breaking its cycle of review when receiving comments from workers' or employers' organizations on a specific country under article 23, paragraph 2, of the ILO Constitution and decided that inspiration in this regard could be drawn from those criteria used for "footnoting" cases and set out in paragraph 73 of that year's General Report.
- 130.** In light of the November 2018 Governing Body decision (GB.334/INS/5) expanding the reporting cycle for technical Conventions from five to six years and expressing its understanding that the Committee would further review, clarify and, where appropriate, broaden the criteria for breaking the reporting cycle with respect to technical Conventions, the Committee proceeded with the review of the criteria mentioned above at its 89th Session (2018).
- 131.** The Committee recalls that, **in a non-reporting year**, when employers' and workers' organizations send observations which simply repeat comments made in previous years, or refer to matters already raised by the Committee, such comments will be examined in the year when the government's report is due, in accordance with the regular reporting cycle. In this case, a report will not be requested from the government outside of that cycle.
- 132.** Where the observations on a technical Convention meet the criteria set out in paragraph below, the Committee will request the office to issue a notification to governments that the article 23 observations received will be examined at its subsequent session with or without a response from

the government. This would ensure that governments have sufficient notice while ensuring that the examination of matters of importance are not further delayed.

- 133.** The Committee would thus review the application of a **technical Convention** outside of a reporting year following observations submitted by employers' and workers' organizations having due regard to the following elements:
- the seriousness of the problem and its adverse impact on the application of the Convention;
 - the persistence of the problem; and
 - the relevance and scope of the government's response in its reports or the absence of response to the issues raised by the Committee, including cases of clear and repeated refusal on the part of a State to comply with its obligations.
- 134.** With respect to **any Convention (fundamental, governance or technical)**, recalling its well-established practice, the Committee will examine employers' and workers' observations in a non-reporting year in the year received in the exceptional cases set out in paragraph above, even in the absence of a reply from the government concerned.
- 135.** The Committee emphasized that the procedure set out in the paragraphs above aims at giving effect to decisions taken by the Governing Body which have extended the reporting cycle and called for safeguards in that context, to ensure that effective supervision of the application of ratified Conventions is maintained. One of these safeguards consists in giving due recognition to the possibility afforded to employers' and workers' organizations to draw the attention of the Committee to matters of particular concern arising from the application of ratified Conventions, even in a year when no report is due. The approach above also pays particular attention to the importance of providing due notice to governments, except in exceptional circumstances, and in all cases the Committee will indicate its reasons for breaking the cycle.
- 136.** The Committee notes that since its last session, it has received 1,156 observations (compared to 757 last year), 212 of which (compared to 230 last year) were communicated by employers' organizations and 944 (compared to 527 last year) by workers' organizations. The great majority of the observations received (955 compared to 695 last year) related to the application of ratified Conventions; ³³ 416 of these observations (compared to 243 last year) concerned the application of fundamental Conventions, 140 (compared to 75 last year) related to governance Conventions and 399 (compared to 377 last year) concerned the application of other Conventions. Moreover, 201 observations were received in relation to the 2022 General Survey on achieving gender equality at work. The Committee notes that 565 of the observations received this year on the application of ratified Conventions were transmitted directly to the Office. In 390 cases, the governments transmitted the observations made by employers' and workers' organizations with their reports. The Committee notes that in general the employers' and workers' organizations concerned endeavoured to gather and present information on the application of ratified Conventions in specific countries, both in law and in practice. The Committee recalls that observations of a general nature relating to certain Conventions are more appropriately addressed within the framework of the Committee's consideration of General Surveys or within other forums of the ILO.

Cases in which the need for technical assistance has been highlighted

- 137.** The combination of the work of the supervisory bodies and the practical guidance given to Member States through development cooperation and technical assistance has always been one

³³ Appendix III to this Report.

of the key dimensions of the ILO supervisory system. The Committee notes that the progressive lifting of travel restrictions after the COVID-19 pandemic enabled the Office to follow up on a number of cases requiring technical assistance to be delivered at country level. The Committee follows up on a number of these cases in the present report, especially where they relate to the follow-up to conclusions adopted by the Conference Committee on the Application of Standards.³⁴ Moreover, assistance was provided by the International Training Centre of the ILO (Turin Centre) and international labour standards specialists based in the field to more than 70 countries for the preparation of article 22 reports on ratified Conventions, including the MLC, 2006.

- 138.** The Committee notes that the ILO backstops the Trade for Decent Work (T4DW) project which currently covers 13 countries in three regions on jointly identified priority areas, including commitments in the supply chain and just transition. The support provided to these countries aims, inter alia, at strengthening reporting capacity and addressing identified compliance gaps. In addition, and always in the framework of T4DW, the Office supports constituent requests for strengthening national statistic offices as a key action to establishing a baseline for decent work.
- 139.** The Committee welcomes the new regional focus of the International Labour Standards Academy which this year focused on Asia and the Pacific, delivering training on international labour standards to the ILO constituents, judges, law professors and other legal professionals across the region. The Committee notes the International Labour Standards Academy's important contribution to building the reporting capacities of governments, employers' and workers' organizations including in countries facing serious weaknesses in this field. The Committee also notes that in addition to the International Labour Standards Academy, the Turin Centre delivered:
- online courses to constituents on reporting in English and French as well as tailor-made training on reporting;
 - international labour standards training to judges in the Americas region;
 - a series of capacity-building events with a focus on promoting the ratification and legal implementation of the MLC, 2006, as well as reporting thereon;
 - finally, the Committee welcomes the tripartite digital activity carried out at the global level by the Office and the Turin Centre in order to facilitate the submission of reports under article 19 of the ILO Constitution and comments by workers' and employers' organizations for the preparation of the 2024 General Survey on labour administration.
- 140.** In addition to cases of serious failure by Member States to fulfil certain specific obligations related to reporting, the cases for which, in the Committee's view, technical assistance from the Office would be particularly useful in helping Member States to address gaps in law and in practice in the implementation of ratified Conventions, particularly in the context of the COVID-19 pandemic, are highlighted in the following table and details can be found in Part II of this report.

List of the cases in which technical assistance would be particularly useful in helping Member States	
State	Conventions Nos
Algeria	100
Angola	107
Azerbaijan	105
Bangladesh	100 and 107

³⁴ See table in paragraph 108.

List of the cases in which technical assistance would be particularly useful in helping Member States	
State	Conventions Nos
Belize	98
Benin	81
Cabo Verde	MLC, 2006
Cameroon	45/162 and 81
Central African Republic	142
Chile	1/14/30
China	45
Colombia	1/14/30/52/101/106
Congo	87, 111 and 188
Costa Rica	1/14/106, 45, 81/129, 96, 102 and 122
Côte d'Ivoire	96
Czechia	140
Democratic Republic of the Congo	62
Djibouti	81, 87 and MLC, 2006
Dominican Republic	88 and 122
Ecuador	45, 87, 98, 100 and 131
Egypt	63, 94 and 96
Eritrea	29 and 138
Eswatini	96
France – French Polynesia	94
Gambia	87 and 98
Greece	144
Guatemala	144
Guinea	87, 138 and 140
Guinea-Bissau	45
Guyana	81/129, 140 and 172
Honduras	144
Iraq	98 and 122
Jamaica	98
Kenya	98
Libya	102/118/121/128
Madagascar	87, 98 and 100
Malawi	111
Malaysia	98
Malaysia – Sarawak	94

List of the cases in which technical assistance would be particularly useful in helping Member States	
State	Conventions Nos
Mali	29
Malta	62
Mauritania	22/23 and 29
Mauritius	160
Morocco	187
Namibia	144, 150 and 188
Nepal	98
Netherlands	121
Netherlands – Curaçao	MLC, 2006
Netherlands – Sint Maarten	87 and 94
Nicaragua	12/17/18/19/24/25 and 87
Nigeria	45 and 185
Pakistan	100
Panama	87, 98, 100 and 189
Paraguay	87 and 98
Peru	87, 98 and 151
Philippines	87
Republic of Moldova	185
Rwanda	154
Saint Kitts and Nevis	98 and 138
Seychelles	151
Sierra Leone	87
Solomon Islands	182
Sri Lanka	98
Suriname	100
Togo	87
Tunisia	MLC, 2006
Turkmenistan	105
Uganda	87 and 98
Ukraine	87, 98 and 115/139/155/176
United Republic of Tanzania	63, 87 and 98
United Republic of Tanzania – Zanzibar	85
Uruguay	94, 98 and 190
Uzbekistan	81/129
Bolivarian Republic of Venezuela	45 and 87

List of the cases in which technical assistance would be particularly useful in helping Member States	
State	Conventions Nos
Viet Nam	98
Zambia	98

C. Reports under article 19 of the Constitution

- 141.** The Committee recalls that the Governing Body decided that the subjects of General Surveys should be aligned with those of the annual recurrent discussions in the Conference under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008. This year, governments were requested to supply reports under article 19 of the Constitution for the General Survey on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Workers with Family Responsibilities Convention, 1981 (No. 156), the Maternity Protection Convention, 2000 (No. 183), the Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111), the Workers with Family Responsibilities Recommendation, 1981 (No. 165) and the Maternity Protection Recommendation, 2000 (No. 191).³⁵ The General Survey entitled *Achieving Gender Equality at Work* has been prepared on the basis of a preliminary examination by a working party comprising six members of the Committee in accordance with the practice followed in previous years.
- 142.** The Committee notes with *regret* that, for the past five years, none of the reports on unratified Conventions and on Recommendations requested under article 19 of the Constitution have been received from the following **20** countries: **Albania, Barbados, Belize, Brunei Darussalam, Chad, Congo, Djibouti, Dominica, Haiti, Lesotho, Liberia, Marshall Islands, Papua New Guinea, Saint Lucia, Sao Tome and Principe, Sierra Leone, Timor-Leste, Tuvalu, Uganda and Yemen.**
- 143.** The Committee once again urges governments to provide the reports requested so that its General Surveys can be as comprehensive as possible and provide a complete picture of developments relevant to the impact of COVID-19 in areas that are particularly affected by the pandemic and parallel interlocking crises.

D. Submission of instruments adopted by the Conference to the competent authorities (article 19, paragraphs 5, 6 and 7 of the Constitution)

- 144.** In accordance with its terms of reference, the Committee this year examined the following information supplied by governments of Member States pursuant to article 19 of the Constitution of the Organization:
- (a) information on measures taken to submit to the competent authorities the instruments adopted by the Conference from June 1970 (54th Session) to June 2019 (108th Session) (Conventions Nos 131 to 190, Recommendations Nos 135 to 206 and Protocols); and
 - (b) replies to the observations and direct requests made by the Committee at its 92nd Session (November–December 2021).

³⁵ Report III (Part B), ILC, 111th Session, Geneva, 2023.

- 145.** Appendix IV of Part II of the report contains a summary of the most recent information received indicating the competent national authorities to which the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session, the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session, as well as the Violence and Harassment Convention (No. 190), and the Violence and Harassment Recommendation, 2019 (No. 206), adopted at the 108th Session of the Conference, were submitted and the date of submission. In addition, Appendix IV summarizes the information supplied by governments in 2022 with respect to the instruments adopted in earlier years and submitted to the competent authorities.
- 146.** Additional statistical information is found in Appendices V and VI of Part II of the report. Appendix V, compiled based on information provided by governments, shows where each Member State stands in terms of its constitutional obligation of submission. Appendix VI shows the overall submission status of each instrument adopted since the 54th Session (June 1970) of the Conference. All instruments adopted prior to the 54th Session of the Conference have been submitted. The statistical data in Appendices V and VI are regularly updated by the competent units of the Office and can be accessed in NORMLEX.

103rd Session

- 147.** At its 103rd Session in June 2014, the Conference adopted the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203). The Committee notes that **121** governments have provided information on the submission of the Protocol of 2014 to the Forced Labour Convention, 1930, whereas **106** governments have provided information on the submission of Recommendation No. 203 to their competent national authorities. It also notes with *interest* that the Protocol of 2014 to the Forced Labour Convention, 1930, which entered into force on 9 November 2016, has been ratified by **59** Member States: **Antigua and Barbuda, Argentina, Australia, Austria, Bangladesh, Belgium, Bosnia and Herzegovina, Canada, Chile, Comoros, Costa Rica, Cyprus, Czechia, Côte d'Ivoire, Denmark, Djibouti, Estonia, Finland, France, Germany, Iceland, Ireland, Israel, Jamaica, Kyrgyzstan, Latvia, Lesotho, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mozambique, Namibia, Netherlands, New Zealand, Niger, Norway, Panama, Peru, Poland, Portugal, Russian Federation, Saudi Arabia, Sierra Leone, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Tajikistan, Thailand, United Kingdom of Great Britain and Northern Ireland, Uzbekistan and Zimbabwe. The Committee encourages all governments to continue their efforts to submit the instruments adopted by the Conference at its 103rd Session to their legislatures and to report on any action taken with regard to these instruments.**

104th Session

- 148.** At its 104th Session in June 2015, the Conference adopted the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). The 12-month period for submission of Recommendation No. 204 to the competent authorities ended on 12 June 2016, and the 18-month period (in exceptional circumstances) ended on 12 December 2016. The Committee notes that **102** governments have provided information on the submission to the competent authorities of Recommendation No. 204. It refers in this regard to Appendix IV of Part II of the report, which contains a summary of information supplied by governments on submission, including with respect to Recommendation No. 204. *The Committee encourages all governments to continue*

their efforts to submit Recommendation No. 204 to their legislatures and to report on any action taken with regard to this instrument.

105th and 106th Sessions

- 149.** The Committee recalls that no instrument was adopted at the 105th Session of the Conference (May–June 2016). At its 106th Session in June 2017, the Conference adopted the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205). The 12-month period for submission of Recommendation No. 205 to the competent authorities ended on 16 June 2018, and the 18-month period (in exceptional circumstances) ended on 16 December 2018. The Committee notes that **88** governments have provided information on the submission of Recommendation No. 205 to the competent national authorities. ***The Committee welcomes the information provided to date and encourages all governments to submit Recommendation No. 205 to their legislatures and to report on any action taken with regard to this instrument.***

107th and 108th Sessions

- 150.** The Committee recalls that no instrument was adopted at the 107th Session of the Conference (May–June 2018). At its 108th Session in June 2019, the Conference adopted the Violence and Harassment Convention, 2019 (No. 190) and the Violence and Harassment Recommendation, 2019 (No. 206). The 12-month period for submission of Convention No. 190 and Recommendation No. 206 to the competent authorities ended on 21 June 2020, and the 18-month period (in exceptional circumstances) ended on 21 December 2020. The Committee notes that **77** governments have provided information on the submission of Convention No. 190, whereas **66** governments have provided information on the submission of Recommendation No. 206 to their competent national authorities. It also notes with **interest** that Convention No. 190, which entered into force on 25 June 2021, has been ratified by **22** Member States: **Albania, Antigua and Barbuda, Argentina, Barbados, Central African Republic, Ecuador, El Salvador, Fiji, Greece, Italy, Mauritius, Mexico, Namibia, Nigeria, Panama, Peru, San Marino, Somalia, South Africa, Spain, United Kingdom of Great Britain and Northern Ireland and Uruguay.** ***The Committee welcomes the information provided to date and encourages all governments to submit Convention No. 190 and Recommendation No. 206 to their legislatures and to report on any action taken with regard to this instrument.***

Cases of progress

- 151.** The Committee notes with **interest** the information provided by the Governments of the following countries: **Burkina Faso, Eswatini and Lesotho.** It welcomes the efforts made by these Governments in overcoming significant delays in submission and taking important steps toward fulfilling their constitutional obligations to submit to their legislatures the instruments adopted by the Conference over a number of years.

Special problems

- 152.** To facilitate the work of the Conference Committee on the Application of Standards, this report only mentions those governments that have not submitted the instruments adopted by the Conference to their competent authorities for at least seven sessions. These special problems are referred to as cases of “serious failure to submit”. **This time frame begins at the 99th Session (2010) and concludes at the 108th Session (2019), bearing in mind that the Conference did not adopt any Conventions or Recommendations during its 97th (2008), 98th (2009), 102nd (2013) and 107th (2018) Sessions.** Thus, this time frame was deemed long enough to warrant inviting the governments concerned to a special sitting of the Conference Committee so that they could account for delays in submission. In addition, the Committee is also providing

information in its observations concerning cases of “failure to submit”, in relation to governments that have not submitted to the competent authorities the instruments adopted at the last six sessions of the Conference.

153. The Committee notes that, at the closure of its 93rd Session on 10 December 2022, the following 42 Member States (39 in 2018, 36 in 2019, 48 in 2020 and 45 in 2021) were in the category of “serious failure to submit”: **Albania, Angola, Bahamas, Belize, the Plurinational State of Bolivia, Brunei Darussalam, Chad, Comoros, Congo, Democratic Republic of the Congo, Dominica, Equatorial Guinea, Fiji, Gabon, Gambia, Grenada, Guinea, Guinea-Bissau, Haiti, Hungary, Kazakhstan, Kyrgyzstan, Lebanon, Liberia, Libya, Malaysia, Maldives, Marshall Islands, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Seychelles, Solomon Islands, Syrian Arab Republic, Timor-Leste, Tuvalu, United Arab Emirates, Vanuatu, Yemen and Zambia.**
154. The Committee is aware of the exceptional circumstances that have affected some of these countries for years, as a result of which some of them have been deprived of the institutions needed to fulfil their obligation to submit instruments. At the 110th Session of the Conference (June 2022), some Government delegations supplied information explaining why their countries had been unable to meet the constitutional obligation to submit Conventions, Recommendations and Protocols to their national legislatures. Further to the concerns raised by the Committee of Experts, the Conference Committee also expressed deep concern at the failure to respect this obligation. It pointed out that compliance with this constitutional obligation, which means submitting the instruments adopted by the Conference to national legislatures, is of the utmost importance in ensuring the effectiveness of the Organization’s standards-related activities.
155. The above-mentioned countries have been identified in observations published in this report, and the Conventions, Recommendations and Protocols that have not been submitted are indicated in the statistical appendices. **The Committee considers it worthwhile to alert the governments concerned so as to enable them immediately, and as a matter of urgency, to take appropriate steps to bring themselves up to date and into compliance with this obligation.** The Committee recalls that governments may benefit from the measures the Office is prepared to take, upon their request, to assist them in taking the steps required for the rapid submission to their legislature of the pending instruments.

Comments of the Committee and replies from governments

156. As in its previous reports, the Committee makes individual observations in section II of Part II of this report on the points that should be brought to the special attention of governments. In general, observations are made in cases where there has been no information for five or more sessions of the Conference. Furthermore, requests for additional information on other points have been addressed directly to a number of countries (see the list of direct requests at the end of section II).
157. As the Committee has already pointed out, it is important that governments send the information and documents required by the questionnaire appended to the Memorandum adopted by the Governing Body in March 2005. The Committee must receive for examination a summary or a copy of the documents submitting the instruments to the legislative bodies, an indication of the date of submission, and be informed of the proposals made as to the action to be taken on the instruments submitted. The obligation of submission is discharged only once the instruments adopted by the Conference have been submitted to the legislature and a decision has been taken on them. The Office must be informed of this decision, as well as of the submission of instruments to the legislature.

- 158.** The obligation of submission to the competent national authorities under article 19 of the ILO Constitution is one of the fundamental obligations of Member States. Unlike other multilateral treaties, where States are not required to undertake any specific action, including ratification, even if they have participated in the adoption of the instruments, the ILO Conventions have gone a step closer to international legislation, in the sense that the Constitution has made it an obligation for all Member States to give serious consideration to their implementation, including ratification, although ratification by itself is in the prerogative of a sovereign State and not required under this constitutional obligation on submission. The Committee, therefore, reiterates the importance of the reporting obligation of Member States with respect to submission to the competent national authorities under article 19 of the Constitution, differentiating itself from other ordinary treaties and making ILO Conventions stand out in the universal framework of the protection of social rights.
- 159.** The Committee hopes to continue to note cases of progress in this matter in its next report. It again reminds governments that they may seek technical assistance from the ILO, particularly through the standards specialists in the field.

* * *

- 160.** Lastly, the Committee would like to express its profound appreciation for the invaluable assistance rendered to it by the officials of the Office, whose expertise, competence and devotion to duty make it possible for the Committee to accomplish its complex task.

Geneva, 10 December 2022

(Signed) Graciela Josefina Dixon Caton
Chairperson

Shinichi Ago
Reporter

► Appendix to the General Report

Composition of the Committee of Experts on the Application of Conventions and Recommendations

Mr Shinichi AGO (Japan)

Professor and Director, Kyoto Museum for World Peace, Ritsumeikan University, former Law Dean and Vice-President of Kyushu University; member of the Asian Society of International Law, the International Law Association and the International Society for Labour and Social Security Law; Former Judge of the Asian Development Bank Administrative Tribunal.

Ms Lia ATHANASSIOU (Greece)

Full Professor of Maritime and Commercial Law at the National and Kapodistrian University of Athens (Faculty of Law); Elected Member of the Deanship Council of the Faculty of Law and Director of the Postgraduate Programme on Business and Maritime Law; President of the Organizing Committee of the International Conference on Maritime Law held in Piraeus (Greece) every three years; Ph.D. from the University of Paris I-Sorbonne; authorization by the same university to supervise academic research; LL.M. Aix-Marseille III; LL.M. Paris II Assas; visiting scholar at Harvard Law School and Fulbright Scholar (2007–08); member of Legislative Committees on various commercial law issues. She has lectured and effectuated academic research in several foreign institutions in France, the United Kingdom, Italy, Malta, the United States, etc. She has published extensively on maritime, competition, industrial property, company, European and transport law (eight books and more than 60 papers and contributions in collective works in Greek, English and French); practising lawyer and arbitrator specializing in European, commercial and maritime law.

Ms Leila AZOURI (Lebanon)

Doctor of Law; Professor of Labour Law at the Faculty of Law at Sagesse University, Beirut until 2021; Director of Research at the Doctoral School of Law of the Lebanese University; Professor and former Director of the Faculty of Law of the Lebanese University until 2016; member of the Executive Bureau of the National Commission for Lebanese Women; Chairperson of the national commission responsible for the preparation of the reports submitted by the Government of Lebanon to the UN Committee on the Elimination of Discrimination against Women (CEDAW) until 2017; legal expert for the Arab Women Organization until 2017; member of the “ILO Policy Advisory Committee on Fair Migration” in the Middle East.

Mr James J. BRUDNEY (United States of America)

Professor of Law, Fordham University School of Law, New York, NY; Co-Chairperson of the Public Review Board of the United Automobile Workers Union of America (UAW); member, UAW Ethics Advisory Committee; former Visiting Fellow, Oxford University, United Kingdom; former Visiting Faculty, Harvard Law School; former Professor of Law, The Ohio State University Moritz College of Law; former Chief Counsel and Staff Director of the United States Senate Subcommittee on Labour; former attorney in private practice; and former law clerk to the United States Supreme Court.

Ms Graciela Josefina DIXON CATON (Panama)

Former President of the Supreme Court of Justice of Panama; former President of the Penal Court of Cassation and of the Chamber of General Business Matters of the Supreme Court of Panama; former President of the International Association of Women Judges; former President of the Latin American

Federation of Judges; former National Consultant for the United Nations Children's Fund (UNICEF); currently Judge of the Inter-American Development Bank Administrative Tribunal; Consulting Partner of the Panamanian Law Firm BRITTON & IGLESIAS; member of the list of Arbitrators of the Court of Arbitration of the Official Chamber of Commerce of Madrid; Arbitrator at the Center for Dispute Resolution (CESCON) of the Panamanian Chamber of Construction, as well as for the Conciliation and Arbitration Center of the Panamanian Chamber of Commerce; and legal adviser and international consultant.

Mr Rachid FILALI MEKNASSI (Morocco)

Doctor of Law; former Professor at the University Mohammed V of Rabat; former member of the Higher Council of Education, Training and Scientific Research; Professor Filali Meknassi still collaborates with numerous academic and scientific institutions in France and Canada. He was also responsible for various international cooperation projects and programmes, including the ILO project "Sustainable Development through the Global Compact" (2005–08). Since 2000, he has collaborated in the training activities of the International Training Centre of the ILO in Turin. He carries out regular advisory activities at the national and international level, and is the founder and director of several national human rights and anti-corruption NGOs. He is also the author of about 100 publications in French and Arabic, some of which have been translated into Spanish and English. He has been a member of the Committee since 2009.

Mr José Roberto HERRERA VERGARA (Colombia)

Doctor of Law; former magistrate and President of the Supreme Court of Justice; associate judge of the Constitutional Court; Vice-President of the Ibero-American Academy of Labour and Social Security Law; Emeritus and Honorary Professor at the University of Rosario; Professor of labour and social security law at the Javeriana University; former Secretary-General of the Office of the Attorney-General; Class A arbitrator in administrative law, Chamber of Commerce of Colombia; former head of the Labour Department of the Banco Cafetero; former President of the Colombian Social Security Association; member of the Commission for Truth on the Palace of Justice Holocaust.

Mr Benedict Bakwaph KANYIP, PhD (Nigeria)

President of the National Industrial Court of Nigeria; fellow, Nigerian Institute of Advanced Legal Studies (NIALS); member of the Nigerian Bar Association, International Bar Association and Nigerian Society of International Law; fellow of the Chartered Institute of Taxation of Nigeria and the Nigerian Chartered Institute of Arbitrators; member of the National Judicial Council and the Federal Judicial Service Commission; expert on consumer protection, labour law and tax law, with numerous publications on the subjects. Holder of the National Honour of Officer of the Order of the Federal Republic (OFR).

Mr Alain LACABARATS (France)

Judge at the Court of Cassation; former President of the third Civil Chamber of the Court of Cassation; former President of the Social Chamber of the Court of Cassation; former member of the Higher Council of the Judiciary; former member of the European Network of Councils for the Judiciary and the Consultative Council of European Judges (Council of Europe); former Vice-President of the Paris Regional Court; former President of the Paris Appellate Court Chamber; former lecturer at several French universities and author of many publications. Member of the ethics assistance and monitoring service of the High Council for the Judiciary.

Ms Elena E. MACHULSKAYA (Russian Federation)

Professor of Law, Department of Labour Law, Faculty of Law, Moscow State Lomonosov University; Secretary, Russian Association for Labour and Social Security Law; 2011–16 member of the

European Committee of Social Rights; member of the President's Committee of the Russian Federation on the Rights of Persons with Disabilities (non-paid basis).

Ms Karon MONAGHAN (United Kingdom of Great Britain and Northern Ireland)

Queen's Counsel; former Deputy High Court Judge (2010–19); former Judge of the Employment Tribunal (2000–08); practising lawyer with Matrix Chambers, specializing in discrimination and equality law, human rights law, European Union law, public law and employment law; Honorary Visiting Professor, Faculties of Laws, University College London.

Mr Sandile NGCOBO (South Africa)

Former Chief Justice of the Republic of South Africa; former Judge and acting Judge President of the Labour Appeal Court of South Africa; former Judge of the Supreme Court, Cape of Good Hope Provincial Division; acting Judge of the Supreme Court of Namibia; presiding officer of the Electoral Tribunal of the Independent Election Commission during the first democratic election in South Africa in 1994; visiting Professor of Law at the Harvard Law School, the University of New York Law School, and former visiting Professor of Law at the Columbia University School of Law and the Cornell Law School; former Chairperson of the South African Presidential Remuneration Review Commission of Inquiry; former attorney in law firms in South Africa and the United States.

Ms Rosemary OWENS (Australia)

Professor Emerita of Law, Adelaide Law School, The University of Adelaide; former Dame Roma Mitchell Professor of Law (2008–15); former Dean of Law (2007–11); Officer of the Order of Australia; Fellow of the Australian Academy of Law (and Director (2014–16)); former editor and currently member of the editorial board of the Australian Journal of Labour Law; member of the scientific and editorial board of the *Révue de droit comparé du travail et de la sécurité sociale*; member of the Australian Labour Law Association (and former member of its National Executive); International Reader for the Australian Research Council; Chairperson of the South Australian Government's Ministerial Advisory Committee on Work-Life Balance (2010–13); Chairperson and member of the Board of Management of the Working Women's Centre (SA) (1990–2014).

Ms Mónica PINTO (Argentina)

Professor Emerita, University of Buenos Aires. Member of the Institute of International Law. Lawyer and legal counsel in public international law cases, and arbitrator and member of ad hoc committees in foreign investment cases. She has appeared as a counsel and an expert before universal and regional human rights bodies and tribunals, arbitral tribunals and the International Court of Justice, where she sits as Judge ad hoc. Member of the Permanent Court of Arbitration (since 2022) and of the Permanent Review Tribunal for MERCOSUR (2021–23). Former Dean of the School of Law at the University of Buenos Aires (2010–18). Visiting Professor at the University of Columbia, Paris I & II, and the University of Rouen. She taught at the Hague Academy of International Law, and at the Inter-American and European Institutes of Human Rights. She held several mandates for the United Nations in the area of human rights. Judge and President of the Administrative Tribunals of the World Bank and the Inter-American Development Bank. Vice-President of the Advisory Committee on nominations of judges of the International Criminal Court (2013–18) and member of the Independent Expert Review of the International Criminal Court (2020). She has published five books and several articles in periodical publications in the United States of America and Europe.

Mr Paul-Gérard POUYOUÉ (Cameroon)

Professor of Law (agrégé), Professor Emeritus, Yaoundé University; guest or associate professor at several universities and at the Hague Academy of International Law; on several occasions, President of the jury for the agrégation competition (private law and criminal sciences section) of the African and Malagasy Council for Higher Education (CAMES); former member (1993–2001) of the Scientific Council

of the Agence universitaire de la Francophonie (AUF); former member (2002–12) of the Council of the International Order of Academic Palms of CAMES; member of the International Society for Labour and Social Security Law, the International Foundation for the Teaching of Business Law, the Association Henri Capitant and the Society of Comparative Law; founder and Director of the review *Juridis périodique*; President of the Association for the Promotion of Human Rights in Central Africa (APDHAC); Chairperson of the Scientific Board of the Labour Administration Regional African Centre (CRADAT); Chairperson of the Scientific Board of the Catholic University of Central Africa (UCAC).

Mr Raymond RANJEVA (Madagascar)

Honorary President of the Madagascar Academy (National Academy of Arts, Letters and Sciences of Madagascar); Former President (2017–21). President and Member of the African Academy of Religious, Social and Political Sciences since 2021. Member since 1974. Judge (1991–2009), Vice-President (2003–06) and Senior Judge (2006–09) of the International Court of Justice (ICJ), and President (2005) of the Chamber formed by the ICJ to deal with the Benin/Niger frontier dispute; Bachelor's degree in Law (1965), University of Madagascar, Antananarivo; Doctorate of Law, University of Paris II; Agrégé of the Faculties of Law and Economics, Public Law and Political Science section, Paris (1972); Doctor honoris causa of the Universities of Limoges, Strasbourg and Bordeaux-Montesquieu; former Professor at the University of Madagascar (1981–91) and several other national and foreign institutions; First Rector of the University of Antananarivo (1988–90); member of the Malagasy delegation to several international conferences; Head of the Malagasy delegation to the United Nations Conference on Succession of States in respect of Treaties (1976–77); former first Vice-President for Africa of the International Conference of French-speaking Faculties of Law and Political Science (1987–91); member of the Court of Arbitration of the International Chamber of Commerce; member of the Court of Arbitration for Sport; member and former Vice-President of the Institute of International Law; member of numerous national and international professional and academic societies; Curatorium of the Hague Academy of International Law; member of the Pontifical Council for Justice and Peace; President of the African Society of International Law since 2012; former Vice-Chairman of the International Law Institute (2015–17); Chairperson of the ILO Commission of Inquiry on Zimbabwe; associate of the Académie de Sciences d'Outre-mer (Paris).

Ms Kamala SANKARAN (India)

Professor, National Law School of India University, Bengaluru. Previously served as Professor, Faculty of Law, University of Delhi; Vice-Chancellor, Tamil Nadu National Law University, Tiruchirappalli and Dean, Legal Affairs, University of Delhi, Member, Task Force to Review Labour Laws, National Commission for Enterprises in the Unorganised and Informal Sector, Government of India; Fellow, Stellenbosch Institute of Advanced Study, South Africa; Visiting South Asian Research Fellow, School of Interdisciplinary Area Studies, Oxford University; Fulbright Post-Doctoral Research Scholar, Georgetown University Law Center, Washington, DC. Serves as Member, International Advisory Board, *International Journal of Comparative Labour Law and Industrial Relations*; Editorial Team, *University of Oxford Human Rights Hub Journal* and Editorial Advisory Board, *Indian Journal of Labour Economics*.

Ms Ambiga SRENEVASAN (Malaysia)

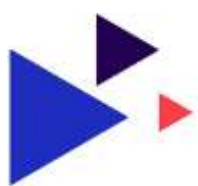
Well-known human rights advocate and recipient of several international awards; Member of the Institutional Reforms Committee of Malaysia; legal assistant and then partner, Skrine (1982–2001), one of the largest law firms in Malaysia; partner, Tommy Thomas (2001–2002); former President of the Malaysian Bar (2007–2009); former Chairperson and then Co-Chairperson of Bersih 2.0 (Coalition for Clean and Fair Elections) (2010–2013); former President of the National Human Rights Society (Hakam) (2014–2018); founded her own law firm in 2002 specializing in trademark, copyright and patent litigation; active in dispute resolution; commissioner and alternate member of the Executive Committee of the International Commission of Jurists.

Ms Deborah THOMAS-FELIX (Trinidad and Tobago)

President of the Industrial Court of Trinidad and Tobago; Judge of the International Monetary Fund Administrative Tribunal; former President of the United Nations Appeals Tribunal; former Second Vice-President of the United Nations Appeals Tribunal; former Chair of the Trinidad and Tobago Securities and Exchange Commission; former Chair of the Caribbean Group of Securities Regulators; former Deputy Chief Magistrate of the Judiciary of Trinidad and Tobago; former President of the Family Court of Saint Vincent and the Grenadines; Hubert Humphrey/Fulbright Scholar; Georgetown University Leadership Seminar Fellow and Commonwealth Institute of Judicial Education Fellow. The Author of two textbooks on Labour Law, Employment Law and Industrial Relations.

Mr Bernd WAAS (Germany)

Professor of Labour Law and Civil Law at the University of Frankfurt; Coordinator and member of the European Labour Law Network; Coordinator of this network's study group on a Restatement of Labour Law in Europe; Coordinator of the European Centre of Expertise in the field of labour law, employment and labour market policies (ECE); President of the German Society for Labour and Social Security Law and member of the Executive Committee of the International Society for Labour and Social Security Law (ISLSSL); member of the Advisory Committee of the Labour Law Research Network (LLRN).



Part II. Observations concerning particular countries

► I. Observations concerning reports on ratified Conventions (articles 22 and 35 of the Constitution)

Observations on serious failure to report

Afghanistan

The Committee notes with **deep concern** that, for the third year, the reports due on ratified Conventions have not been received. Nine reports are now due, which should have included information in reply to the Committee's comments, including on fundamental Conventions.

On the basis of the decision of the Committee concerning the treatment of urgent appeals, the Committee decided to examine at this session the application of Conventions Nos 100 and 111 for which the reports have not been received for more than three years, based on public information at its disposal.

While taking note of the complexity of the national situation, the Committee trusts that all responsible authorities will honour their international commitments and provide information in response to the Committee's comments.

Albania

The Committee notes with **deep concern** that, the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006) due since 2018 has not been received. The Committee also notes that the 12 reports due on ratified Conventions, including fundamental Conventions, most of which should have included information in reply to the Committee's comments, have not been received.

On the basis of the decision of the Committee concerning the treatment of urgent appeals, the Committee decided to examine at this session the application of the Maritime Labour Convention, 2006, as amended (MLC, 2006) for which the first report has not been received for more than three years, based on public information at its disposal.

The Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

Antigua and Barbuda

The Committee notes with **deep concern** that, for the third year, the reports due on ratified Conventions have not been received. Fifteen reports are now due, most of which should have included information in reply to the Committee's comments, including on fundamental Conventions.

Recalling that technical assistance was provided on these issues this year by the ILO Decent Work Team for the Caribbean and the International Training Centre of the ILO, the Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Chad

The Committee notes with **deep concern** that, for the third year, the reports due on ratified Conventions have not been received. Sixteen reports are now due, most of which should have included information in reply to the Committee's comments, including on fundamental Conventions.

The Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

Comoros

The Committee notes with **concern** that, for the second year, the reports due on ratified Conventions have not been received. Twenty-four reports are now due, most of which should have included information in reply to the Committee's comments, including on fundamental Conventions. The Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

Congo

The Committee notes with **deep concern** that the first report on the Work in Fishing Convention, 2007 (No. 188), due since 2018 has not been received. Only one of the 17 reports requested this year has been received. Sixteen reports are still due on ratified Conventions, most of which should have included information in reply to the Committee's comments, including on fundamental Conventions,

On the basis of the decision of the Committee concerning the treatment of urgent appeals, the Committee decided to examine at this session the application of Conventions Nos 100, 105, 111 and 188 for which the reports have not been received for more than three years, based on public information at its disposal.

The Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

Cook Islands

The Committee notes with **concern** that the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006) due since 2021 has not been received. Recalling that technical assistance was provided on these issues this year by the ILO Office for Pacific Island Countries, the Committee hopes that the Government will soon submit this first report in accordance with its constitutional obligation.

Dominica

The Committee notes with **deep concern** that, for the tenth year, the reports due on ratified Conventions have not been received. Eight reports are now due, most of which should have included information in reply to the Committee's comments, including on fundamental Conventions.

The Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

Gabon

The Committee notes with **concern** that for the second year, the reports due on ratified Conventions have not been received. Sixteen reports are now due, most of which should have included information in reply to the Committee's comments, including on fundamental Conventions.

The Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

Grenada

The Committee notes with **concern** that the first reports on the application of the Maritime Labour Convention, 2006, as amended (MLC, 2006), and the Domestic Workers Convention, 2011 (No. 189) both due since 2021 have not been received. The Committee also notes that none of the reports requested this year have been received. Nine reports are now due on ratified Conventions, most of which should have included information in reply to the Committee's comments, including on fundamental Conventions.

On the basis of the decision of the Committee concerning the treatment of urgent appeals, the Committee decided to examine at this session the application of Conventions Nos 100 and 111 for which the reports have not been received for more than three years, based on public information at its disposal.

The Committee hopes that the Government will soon submit these first reports on the application of the MLC, 2006 and Convention No. 189 both due since 2021, as well as the other reports due this year in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Haiti

The Committee notes with **deep concern** that, for the third year, the reports due on ratified Conventions have not been received. Eleven reports are now due, most of which should have included information in reply to the Committee's comments, including on fundamental Conventions. The Committee launches an **urgent appeal** to the Government to send its reports without delay and advises the Government that, even in the absence of these reports, the Committee may fully review the application of these Conventions at its next meeting on the basis of available information.

The Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

Lebanon

The Committee notes with **deep concern** that, for the fourth year, the reports due on ratified Conventions have not been received. Thirty-seven reports are now due including the first report on the application of the Maritime Labour Convention, 2006, as amended (MLC, 2006) due since 2021. The reports due, most of which should have included information in reply to the Committee's comments, included reports on fundamental Conventions.

On the basis of the decision of the Committee concerning the treatment of urgent appeals, the Committee decided to examine at this session the application of Conventions Nos 29, 81, 100, 105, 111 and 150 for which the reports have not been received for more than three years, based on public information at its disposal.

The Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

Marshall Islands

The Committee notes with **concern** that the first report on the Worst Forms of Child Labour Convention, 1999 (No. 182) due since 2021 has not been received. The Committee hopes that the Government will soon submit this first report in accordance with its constitutional obligation.

Saint Lucia

The Committee notes with **deep concern** that, for the ninth year, the reports due on ratified Conventions have not been received. Nine reports are now due, some of which should have included information in reply to the Committee's comments, including on fundamental Conventions.

The Committee launches an **urgent appeal** to the Government to send its reports without delay and advises the Government that, even in the absence of these reports, the Committee may fully review the application of these Conventions at its next meeting on the basis of available information.

The Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

Slovenia

The Committee notes with **concern** that, for the second year, the reports due on ratified Conventions have not been received. Fourteen reports are now due, most of which should have included information in reply to the Committee's comments, including on fundamental Conventions.

Recalling that technical assistance was provided on these issues this year by the International Training Centre of the ILO, the Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Somalia

The Committee notes with **concern** that, for the second year, the reports due on ratified Conventions have not been received. Fourteen reports are now due, most of which should have included information in reply to the Committee's comments, including on fundamental Conventions.

On the basis of the decision of the Committee concerning the treatment of urgent appeals, the Committee decided to examine at this session the application of Convention No. 29 for which the report has not been received for more than three years, based on public information at its disposal.

Recalling that technical assistance was provided on these issues this year by the International Training Centre of the ILO, the Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Sudan

The Committee notes with **concern** that the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006) due since 2021 has not been received.

Recalling that technical assistance was provided on these issues this year by the ILO Decent Work Team for North Africa, the Committee hopes that the Government will soon submit this first report in accordance with its constitutional obligation.

Syrian Arab Republic

The Committee notes with **deep concern** that, for the third year, the reports due on ratified Conventions have not been received. Twelve reports are now due, most of which should have included information in reply to the Committee's comments, including on fundamental Conventions.

The Committee launches an **urgent appeal** to the Government to send its reports without delay, and advises the Government that, even in the absence of these reports, the Committee may fully review the application of these Conventions at its next meeting on the basis of available information.

The Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

Timor-Leste

The Committee notes with **concern** that, for the second year, the reports due on ratified Conventions have not been received. Four reports are now due on fundamental Conventions which should have included information in reply to the Committee's comments.

Recalling that technical assistance was provided on these issues this year by the ILO Decent Work Team for East and South-East Asia and the Pacific, the Committee hopes that the Government will soon submit its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Tuvalu

The Committee notes with **deep concern** that, for the third year, the reports due have not been received including the first report on the Worst Forms of Child Labour Convention, 1999 (No. 182) due since 2021.

The Committee launches an **urgent appeal** to the Government to send its report on the application of the Maritime Labour Convention, 2006, as amended, without delay and advises the Government that, even in the absence of this report, the Committee may fully review the application of this Convention at its next meeting on the basis of available information.

Recalling that technical assistance was provided on these issues this year by the International Training Centre of the ILO, the Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

United Kingdom of Great Britain and Northern Ireland

Falkland Islands (Malvinas)

The Committee notes with **concern** that the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006) due since 2021 has not been received. The Committee also notes that none of the reports requested this year has been received. Four reports are now due on ratified Conventions, some of which should have included information in reply to the Committee's comments, including fundamental Conventions.

The Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Vanuatu

The Committee notes with **deep concern** that, for the fourth year, the reports due on ratified Conventions have not been received. The Committee also notes that the first report on the Minimum Age Convention, 1973 (No. 138) due since 2021 has not been received. Nine reports are now due, some of which should have included information in reply to the Committee's comments, including on fundamental Conventions.

The Committee launches an **urgent appeal** to the Government to send its reports without delay and advises the Government that, even in the absence of these reports, the Committee may fully review the application of these Conventions at its next meeting on the basis of available information.

The Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

Yemen

The Committee notes with **deep concern** that, for the third year, the reports due on ratified Conventions have not been received. Thirteen reports are now due, most of which should have included information in reply to the Committee's comments, including on fundamental Conventions.

The Committee launches an **urgent appeal** to the Government to send its reports without delay and advises the Government that, even in the absence of these reports, the Committee may fully review the application of these Conventions at its next meeting on the basis of available information.

The Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: *Barbados, Burundi, Central African Republic, Croatia, Djibouti, El Salvador, Equatorial Guinea, Fiji, Iraq, Lao People's Democratic Republic, Liberia, Libya, Malawi, Malta, Mongolia, Montenegro, Netherlands: Aruba, Papua New Guinea, Romania, Samoa, Sao Tome and Principe, Singapore, South Sudan, Tajikistan, Tonga, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland: Guernsey, United Kingdom of Great Britain and Northern Ireland: Jersey.*

Freedom of association, collective bargaining, and industrial relations

Algeria

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1962)

Previous comment

The Committee notes the information communicated by the Government in response to the 2020 observations of the General and Autonomous Confederation of Workers in Algeria (CGATA) and of the National Autonomous Union of Public Administration Personnel (SNAPAP), supported by the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) and Public Services International (PSI). The Committee notes that the Government provides no response regarding the closure of the CGATA headquarters in Algiers and refutes the allegations of persecution of around a hundred trade unionists. The government states that: (i) Mr Maaza Belkacem and Ms Lalia Djaddour were convicted for reasons unconnected to the exercise of their trade union rights; and (ii) no legal action was engaged against Mr Kaddour Chouicha, Coordinator of the Higher Education Teachers' Union (SESS). With regard to the observations of September 2020, from the Trade Union Confederation of Productive Workers (COSYFOP), supported by the international trade union organizations (UITA, ISP and IndustriALL Global Union), the Committee notes that the Government restricts itself to contesting the legality of the COSYFOP general assembly, on the grounds that Mr Mellal Raouf did not have the authority to convene it, and does not respond to the allegations of judicial harassment against the other COSYFOP leaders, or with regard to the closure of the headquarters of the union. ***The Committee requests the Government to provide information on the overall situation of the COSYFOP leaders mentioned by COSYFOP in its communication of 30 September 2020. Recalling the right of organizations to be able to dispose of all their fixed and moveable assets unhindered, and that they should enjoy inviolability of their premises, as corollaries of the exercise of their trade union rights, the Committee urges the Government to indicate the reasons for the closure of the COSYFOP headquarters and that of the CGATA.***

The Committee also notes the observations of the CGATA, dated 24 March 2021, according to which the Joint Council of the Civil Service and the National Arbitration Commission are not composed of real SNAPAP representatives, but of persons coming from a "clone" organization, established with the support of the Government. In this regard, the Committee notes the Government's reply, dated 27 April 2021, which essentially denies the alleged facts. The Government states that the trade union organizations freely appointed their representatives within these instances and recalls that if the SNAPAP has had an internal leadership dispute in its past, there is today only one, single SNAPAP, represented by its Secretary-General, Mr Felfoul Belkacem, and that this is confirmed by various SNAPAP congresses, the latest of which dates to January 2016. The Committee also notes the observations of the CGATA, dated 2 May 2021, denouncing the continued persecution of Mr Kaddour Chouicha, Coordinator of the SESS, persecution which is also directed against members of his family. Finally, the Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022, which concern legal issues already examined by the Committee and which point to continuing, serious violations of the Convention in practice. In particular, the ITUC denounces: (i) the arrest by the gendarmerie on 19 February 2022 of Mr Faleh Hammoudi, member of the SNAPAP office and President of the Algerian League for the Defence of Human Rights (LADDH), and his sentencing under urgent proceedings by the court of the first instance in Tlemcen to three years' imprisonment and a fine; and (ii) the arrest and arbitrary detention of Mr Mourad Ghedia, Chairperson of the SNAPAP/CGATA in April

2021. The ITUC states that following a major international campaign, Mr Ghedia was released after two months and ten days of detention. The Committee notes that, in its response of 27 October 2022 to the above-mentioned allegations, the Government states that Mr Faleh Hammoudi was judged by a sovereign court and that “in light of the evidence examined in this case [Mr Hammoudi] can neither conceal nor deny his membership of a terrorist group the actions of which are directed at undermining the democratic character of Algerian society by illegal means.” The Government adds that it is up to Mr Hammoudi to appeal the decision. With regard to Mr Mourad Ghedia, the Government declares that it will provide its comments once it has received the information from the administration concerned. In view of the gravity of the facts alleged, the Committee wishes to recall that the right of trade unions to freely carry out their activities is an essential element of trade union rights and that measures taken against trade union leaders or trade unionists to restrict this freedom implies a serious risk of interference in trade union activities and, where the restrictions are based on trade union grounds, they constitute a violation of freedom of association. Under these circumstances, it is for the Government to guarantee at all times that defenders of trade union rights may be able to carry out their activities without fear of retaliation and without restriction. ***The Committee urges the Government to provide its comments in response to the above observations and to communicate all information related to the above-mentioned legal procedures.***

Legislative issues

The Committee notes the adoption of Act No. 22-06 of 25 April 2022, amending and supplementing Act No. 90-14 of 2 June 1990 on the exercise of the right to organize.

Article 2 of the Convention. Right to establish trade union organizations. The Committee notes with **satisfaction** that Act No. 22-06 of 25 April 2022 removes the nationality requirement provided under section 6 of Act No. 90-14, now allowing non-national employers and workers to form trade union organizations and, subject to three years’ residence and according to modalities established in the statutes, to become members of the executive board of a trade union (section 13 *bis* of Act No. 90-14). However, with reference to the observations from the ITUC, the Committee notes that the penalties for participating in an organization subject to dissolution have been increased (sections 60 and 61 of Act No. 90-14), which amounts to a risk of obstruction to the exercise of freedom of association, especially where the conditions for dissolution of the trade union are contested (see below, the situation of the Autonomous National Union of Electricity and Gas Workers (SNATEG)), given the recurrent complaints of “cloning” organizations and the allegations of closure of trade union headquarters mentioned above.

Article 5. Right to establish federations and confederations. The Committee notes with **satisfaction** that the new section 4 of Act No. 90-14 now allows trade union organizations to constitute federations, unions and confederations “whatever the occupation, branch and sector to which they belong”.

Article 3. Restrictions on access to trade union office. In its previous comments, the Committee requested the Government to initiate without delay consultations with the social partners on measures to be taken to amend the requirements resulting from the application of section 2 of Act No. 90-14, so that trade union office in an enterprise or establishment is no longer restricted to persons employed by the enterprise or establishment in question, or to remove the requirement to belong to the occupation or to be an employee for at least a reasonable proportion of trade union officers. The Committee notes with **regret** that section 2 of Act No. 90-14 remains unchanged. The Committee recalls that it considers the requirement to belong to an enterprise or establishment in order to exercise trade union functions may infringe trade unions’ freedom to formulate their rules and to freely elect their representatives. It removes from unions the possibility to elect qualified persons (such as full-time trade union officials or retirees), and deprives them of the experience of certain leaders when there are insufficient numbers of qualified persons in their own ranks. ***Consequently, the Committee requests the Government to take***

the necessary measures to ensure that the legislation complies fully with the Convention, in conformity with the principles recalled above.

Registration of trade union organizations

The Committee notes the Government's indication that the number of trade unions has increased from 117 in 2019 to 160 in 2022 and its assertion that this bears witness to the Government's wish to deal with the pending registration files, and associating stakeholders in the regularization process. In this regard, the Committee notes the Government's indication that it used every available means of reaching out to the organizations awaiting registration, but to no avail. The Committee notes that the Government repeats the following information: (i) the CGATA file does not conform to the conditions set out in Act No. 90-14, in that it is not composed of any legally established union, as required by the law, which requires any confederation to be established by a group of legally registered or established unions; (ii) the file for the establishment of the Algerian Union of Employees of the Public Administration (SAFAP) is pending due to a dispute between the founding members, to be settled out of court or by decision; (iii) regarding the registration of the Confederation of Algerian Trade Unions (CSA), the Government is waiting for the members concerned to attend the competent service of the Ministry of Labour, to update their file in line with the amendments introduced following the adoption of the Act of 25 April 2022. ***The Committee notes the follow-up information provided by the Government and requests it to continue to provide updated information on the handling of files for the registration of trade unions.***

Regarding the situation of the SNATEG, the observations of which reveal numerous obstacles to the freedom to organize its activities, the Committee recalls that the Committee on Freedom of Association, during its last examination of the case (392nd report, October 2020, case No. 3210), formulated recommendations to the Government, including: (i) to conduct an independent investigation to determine the circumstances that led to the administrative decision to dissolve the SNATEG; and (ii) to review the decision to dissolve the SNATEG without delay. The Committee notes with ***regret*** that the Government limits itself to repeating that it has provided all information relative to the voluntary dissolution of the SNATEG, including the minutes of the bailiff who noted the voluntary dissolution. The Government underscores that it cannot overrule the will of the members of the trade union to dissolve their trade union. ***The Committee is concerned at the absence of progress in this matter, and once again requests the Government to take the necessary measures to give effect to the recommendations of the Committee on Freedom of Association.***

The Committee is raising other matters in a request addressed directly to the Government.

Antigua and Barbuda

Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 2002)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Articles 4 and 5 of the Convention. In its previous comments, the Committee had requested the Government to take the necessary measures to grant civil servants and their organizations sufficient legal protection against anti-union discrimination and interference, and had requested the Government to provide information on cases concerning anti-union discrimination. The Committee notes the information contained in the Government's report that there are no cases to report with regard to anti-union discrimination and that the Antigua and Barbuda Constitution grants inalienable rights to citizens. ***The Committee once again***

requests the Government to take the necessary measures to grant civil servants and their organizations sufficient legal protection against anti-union discrimination and interference and requests the Government to provide information of any cases concerning anti-union discrimination (especially with respect to the procedures and sanctions imposed).

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Bahamas

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2001)

Previous comments: [observation](#) and [direct request](#)

The Committee recalls that for a number of years it has been requesting the Government to amend the Industrial Relations Act (IRA), and other texts, so as to bring the national legislation into conformity with the Convention. In particular, the Committee referred to the need to amend the following provisions:

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations without previous authorization.

- Section 3 of the IRA and sections 39 and 40 of the Correctional Officers (Code of Conduct) Rules, 2014, so as to ensure that prison staff enjoy all rights and guarantees under the Convention; and
- section 8(1)(a) and the First Schedule of the IRA, so as to ensure that, beyond the verification of formalities, the Registrar has no discretionary powers to refuse the registration of trade unions and employers' organizations.

Article 3. Right of workers' organizations to draw up their constitutions and rules and to elect their representatives in full freedom and to freely organize their activities and to formulate their programmes.

- Section 20(2) of the IRA, so as to ensure that trade unions can conduct ballots for election or removal of trade union officers and for amendment of the constitution of trade unions without interference from the authorities;
- section 20 (3) of the IRA, so as to ensure that trade unions can conduct strike ballot without supervision by the authorities;
- sections 73, 76(1) and 77 (1) of the IRA providing for compulsory arbitration to bring an end to a collective labour dispute and a strike, so as to not excessively restrict the right of organizations to formulate their programmes and organize their activities;
- sections 74(3), 75(3), 76(2)(b) and 77(2) of the IRA, so as to ensure that no penal sanctions may be imposed for having carried out a peaceful strike; and
- section 75, so as to allow organizations responsible for defending socio-economic and occupational interests to use strike action or protest action to support their position in the search for solutions to problems posed by major social and economic policy trends which have a direct impact on their members.

Article 5. Right to affiliate to an international federation or confederation.

- Section 39 of the IRA, so as to ensure the right of workers' and employers' organizations to affiliate with international organizations of workers and employers.

The Committee notes the Government's indication that the National Tripartite Council is continuing to review the IRA and that no amendments have yet been made to any of the above-

mentioned sections, or to article 31 of the Constitution (which, among others, defines prison services as “disciplined force” along with the police and military). The Government indicates that priority has been given to sections 20(2), 74(3), 75(3), 76(2)(b) and 77(2) of the IRA in the reviewing exercise and that it is examining the possibility of repealing section 39 of the IRA. The Committee welcomes the Government’s indication that it will request ILO technical assistance to finalize any relevant pieces of legislation. ***The Committee urges the Government to take all necessary measures, in consultation with the social partners, to amend its legislation in the near future, so as to ensure its full conformity with the Convention without further delay, and requests the Government to provide information on all developments in this respect.***

Bangladesh

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1972)

Previous comment

The Committee takes note of the Government’s report of 9 September 2022 on progress made on the implementation of the road map of actions to address all outstanding issues in the complaint pending under article 26 of the ILO Constitution concerning this Convention, among others, as well as the decision adopted by the Governing Body at its 346th Session (November 2022) requesting the Government to report on further progress made to its 347th Session (March 2023) and to defer the decision on further action to that session.

The Committee notes the observations of the International Trade Union Confederation (ITUC) and of the Trade Union Committee of International Labour Standards (TU-ILS) (a committee of the workers’ representatives from the National Coordination Committee for Workers’ Education (NCCWE) and IndustriALL Bangladesh Council (IBC)), both received on 1 September 2022, referring to matters addressed in this comment and alleging new cases of violence and repression by police, as well as continued retaliation against workers in connection with trade union activities and surveillance of trade unionists by the authorities.

Civil liberties. The Committee has been expressing deep concern at the allegations of violence and intimidation of workers for a number of years and has urged the Government to provide information on any such specific allegations remaining and to take all necessary measures to prevent such incidents in the future and ensure that, if they occur, they are properly investigated.

The Committee notes the Government’s reference to cases filed against trade unionists that remain sub-judice and the regular monitoring by the Ministry of Labour and Employment. As regards the specific allegations concerning the Jute Mills in Chittagong, the Committee notes the Government’s indication that there was no incident of clash between the Jute Mill workers and Industrial police, nor were there any incidents of July 2020 where the Mills were closed by the authority. As regards the allegation of injuries to ten garment workers during a protest over non-payment of wages in Gazipur in September 2018, the Government states that the allegation does not provide any clear information regarding a specific incident, with no reference to date or factory, and in any event denies that any workers were injured during protests over non-payment of wages in Gazipur in this period. As regards the allegations of increased pressure and state surveillance of garment federations by a newly-formed unit in the Department of National Security, resulting in at least 175 trade union leaders and active members being blacklisted and 26 of them facing criminal and civil charges, the Government indicates that the Bangladesh Labour Act (BLA) leaves no scope for blacklisting trade union leaders or workers and requests particularly information on the allegations of blacklisting in order to consider any action that might be taken if a violation is found.

The Government further provides information on the training and sensitization programs that have been organized for the personnel of disputes by the Industrial Police, referring specifically to orientation courses on labour rights, labour laws, human rights and workers' federation activities. The Industrial Police has trained 1,389 of its personnel so far concerning prevention of violence, unfair labour practices and anti-union acts as part of its broader training programmes. In collaboration with the ILO, the Department of Labour (DOL) has planned a training for 90 Industrial Police personnel ranked from Superintendents of Police to Sub-Inspectors of Police in August 2022 and a training of trainers on preventing unfair labour practice, violence and harassment in September 2022. Bangladesh Police also provides regular training on these issues to its personnel across the board, while further upgrading of training curricula for Industrial Police, with added features concerning labour rights and trade union activities, is being discussed with Industrial Police and the ILO. Ministry of Labour and Employment (MOLE), Ministry of Home Affairs and Ministry of Law, Justice and Parliamentary Affairs continue to provide instructions to their subsidiary agencies regarding handling of cases, including those involving alleged acts of violence and harassment against workers. The judiciary, prosecutorial services and law enforcement agencies receive regular training on these issues as part of their mandate. Further customized training may be provided based on specific needs and with ILO's technical support. Additionally, from July 2020 to June 2022, DOL has trained about 20,000 workers, management staff, and government officials through its 4 Industrial Relations Institutes (IRIs) and 32 Labour Welfare Centres (LWCs), with nearly 45 per cent female participants. The training topics include violence, harassment, unfair labour practices and anti-union discrimination in the workplace. DOL has also taken the initiative to provide training to the security staff, managers/employers of factories, providing basic information concerning complaint management and investigations, while the Industrial Police continues to engage with employers and factory management to sensitize their respective security personnel about prevention of violence and supporting investigations in case of alleged violence and harassment. A database on training, linked to the DOL website, is being supported by the ICT service vendor and will incorporate relevant information of the trainees (segregated by name, designation, factory/ trade union, age, sex, etc.) collected from the IRIs and LWCs. Further discussions are required to explore the possibility of including information on Industrial Police training in the proposed online database. Finally, the Government indicates that both DOL and the Department of Inspection for Factories and Establishments (DIFE) are entrusted with monitoring the case proceedings and management, including for those concerning alleged acts of violence and harassment against workers. The Government adds that it continues to consider the setting up of a dedicated Cell within an appropriate Ministry/agency to ensure and monitor proper investigation of such alleged cases as part of yet another confidence-building measure.

While taking due note of the various initiatives referred to by the Government, the Committee notes with **concern** the ITUC allegations in its latest communication that the climate for the exercise of trade union rights and the protection of workers is getting worse. According to the ITUC, strikes are met with extreme brutality by the police, who use batons, gunshots, tear gas and sound grenades against workers, killing at least five workers and injuring dozens more in 2021 after police opened fire on a crowd of workers demanding unpaid wages and a pay rise in Chittagong. The ITUC further refers to: (i) attacks by the industrial police in Gazipur on protesting garment workers on 15 February 2022; (ii) police inflicted injuries on workers protesting sexual harassment on 1 February 2022 in the Tongi Industrial Area; (iii) the injury on 13 June 2021, following a police crackdown, of garment workers demanding their wages after the closure of a factory in the Dhaka export processing zone (DEPZ); (iv) 12 workers severely injured when police used disproportionate force to suppress protests against unpaid wages and allowances in Dhaka on 25 July 2020. According to the ITUC, these events show a pattern of police attacks against protesting workers and if unpunished will result in impunity by the police and security forces who insert themselves into the industrial relations of the country. The Committee further observes the comments of the TU-ILS that while most complaints related to the 2016

and 2018 minimum wage unrest have been settled, several cases remain pending. The TU-ILS provides a detailed list of remaining cases with relevant case numbers, adding that in some factories, personal information and photos of the workers concerned is shared claiming that they are involved in a criminal offence while the case is still pending. The TU-ILS further alleges that the industrial police are trying to take on the role of conciliator or arbitrator of labour disputes, sometimes intimidating workers to resign. Some factories have provided accommodation for the industrial police and trade union offices are under police surveillance and lists are being made of workers attending trade union meetings. As regards the establishment of 29 committees of officials from the DOL and the DIFE, which the Government previously indicated had the aim of ensuring peaceful and congenial working conditions in ready-made garment (RMG) factories, the TU-ILS alleges that, while these committees are tripartite, they are highly political and administratively controlled, mostly influenced by the police, with labour representation selectively chosen. The TU-ILS asks for detailed information on the committees, their activities and disputes resolved. As for training and awareness-raising activities for the police, the TU-ILS contends that there has been only a limited number of trainings with little result. In the view of TU-ILS, dispute resolution mechanisms are what is needed.

The Committee notes with **concern** the very detailed information provided by the ITUC and the TU-ILS concerning numerous allegations of new cases of violence against trade unionists carried out by the industrial police. While the Committee takes due note of the information provided by the Government concerning the previous allegations, it observes that the industrial relations climate appears to remain one of little trust with confrontation a regular attribute. The Committee must therefore once again recall that a truly free and independent trade union movement can only develop in a climate free from violence, pressure and threats of any kind against the leaders and members of such organizations. ***The Committee requests the Government to review all the allegations of violence, harassment and intimidation with the TU-ILS with a view to carrying out the necessary investigations to determine those responsible, punishing the guilty parties and preventing the repetition of any such acts. The Committee requests the Government to keep it informed of all steps taken in this regard.***

Furthermore, while noting the information provided by the Government concerning the training of the industrial police, the Committee notes with **concern** the numerous allegations concerning the expansion of the role of industrial police at the factory level in such a way as to intimidate and impede workers in the exercise of their freedom of association guaranteed by the Convention. ***The Committee therefore encourages the Government to continue to provide all necessary training and awareness-raising to the police and other State agents to sensitize them about human and trade union rights and urges the Government to review their role, with the workers' and employers' organizations concerned, so as to ensure that issues purely concerning labour relations are relegated to the unique authority of the relevant Ministry.***

Article 2 of the Convention. Right to organize. Registration of trade unions. The Committee notes the Government's indication that it has been implementing a number of initiatives to make the registration process simple, objective, rapid and transparent. The Government refers in particular to: (i) training of DOL officials on the Standard Operating Procedures (SOPs) in November 2021 with the collaboration of the ILO; (ii) 10 DOL officials have joined a three month training programme on Labour Relations and Social Dialogue conducted by the International Training Centre of the ILO in association with the Institute of Social Welfare and Research of the University of Dhaka; (iii) a pre-application service desk was established in every office of the Registrar of Trade Union (RTU) under DOL in January 2021 to ensure smooth registration through quality applications by scrutinizing trade union registration application documents; (iv) despite the adverse effect of COVID-19, 290 trade unions were registered in 2020 and 376 in 2021, while the success rate has increased from 88.69 per cent to 92.38 per cent during the same period; (v) digitization of the trade union registration process under DOL was completed on 27 October 2021 and was made active for users on 1 April 2022. The online registration system will be regularly reviewed and updated based on stakeholder feedback. The Committee further notes the

statistics provided on registration disaggregated by year and status and the Government's indication that the Publicly Accessible Online Database was activated on 30 September 2021 on the DOL website (www.dol.gov.bd) with the assistance of the Social Dialogue and Industrial Relations Project of ILO. It provides information on 11 areas, namely status of trade union application, registration, rejection, and filing; the number of national and sector wide trade union federations, participation committees, collective bargaining agreements; and information on unfair labour practices/ anti-union discrimination as well as conciliation of labour disputes. The Government states that the database, which was presented to a tripartite consultative workshop on 7 August 2022, should enhance the transparency of the trade union registration process, and will continue to be updated with relevant information.

The Committee notes however the TU-ILS allegations that: (i) while the law enables three unions per workplace, the DOL will only register one union; (ii) after a registration application is filed, the confidential information of the workers concerned is leaked to the employers through DOL requests to the employer for different documents. The workers then become vulnerable to intimidation and harassment; (iii) there are various requirements not contained in the law that hinder registration (i.e., representation of DOL in the general meeting to sign minutes; requirement that 20 per cent of the workers attend the general meeting for the union; requirement of permission from the local police for in-house or public meetings; delays in registration of five-months and beyond; requirement to submit both offline and online); (iv) the application portal is not well maintained and usage is not simple. The ITUC for its part regrets the lack of involvement of the Bangladeshi unions in the design of the registration process. The Committee notes with **concern** the allegations of interference by the Government in the steps taken by workers to form organizations of their own choosing and recalls that workers' organizations must be able to draw up their constitutions and rules in full freedom without government interference. The Committee further notes the numerous concerns raised by the TU-ILS as regards hurdles to registration that are not set out in the law, and observes from the statistics provided by the Government that the number of valid applications out of the total applications (as opposed to the percentage of unions registered which is only based on valid applications) continues to remain quite low (2021: 281 out of 394; January through July 2022: 57 out of 128). ***The Committee requests the Government to indicate the types of issues found when determining invalid applications and it encourages the Government to continue to engage with the workers' organizations concerned as regards the functioning of the digitized registration process for their feedback on any obstacles encountered and consideration of measures to redress them. The Committee also encourages the Government to continue to provide comprehensive training to divisional and regional officers who, following the decentralization of the registration process, are responsible for registration of trade unions, so as to ensure that they have sufficient knowledge and capacity to handle applications for registration rapidly and efficiently, while taking steps to ensure confidentiality of workers and their identity.***

Minimum membership requirements. The Committee notes the Government's indication that the 2018 amendment to the BLA, reducing the minimum membership requirement to form a trade union and maintain its registration from 30 per cent to 20 per cent of the total number of workers employed in the establishment in which a union is formed, is being applied since its entry into force on 14 November 2018. According to the Government, while taking into account the impact of the COVID-19 pandemic, the reduction to the minimum membership requirement has resulted in an increase in the number of registration applications. (2018: 394; 2019: 943; 2020: 413; 2021: 394). The Committee recalls its previous comment that the 20 per cent threshold is still likely to be excessive, especially in large enterprises, where it constitutes a hurdle to form a union, and takes note of the indication by the TU-ILS that it has proposed the repeal of section 190(f) which allows for cancellation of a trade union if its membership falls below the minimum membership requirement, and section 179(5) which limits the number of trade unions in an establishment or group of establishments to a maximum of three. The Committee notes the Government's indication in its report on the progress made with the timely

implementation of the road map that amendment proposals from the tripartite constituents have been compiled by the Tripartite Labour Law Review Committee for discussion on the compiled recommendations to be forwarded to the tripartite working group (TWG) and that the MOLE is engaged with the ILO to align the BLA with relevant international labour standards. ***The Committee expects that the Government will make progress in the near future in its tripartite review of sections 179(5) and 190(f) of the BLA with a view to reducing the minimum membership requirements to a reasonable level, at least for large enterprises, and ending the possible cancellation of trade unions that fall below minimum membership requirements, as well as addressing the limits on the number of trade unions in an establishment.***

With regard to the application of the BLA to workers in the agricultural sector through Bangladesh Labour Rule 167(4), the Committee notes the Government's indication that there has been consultation on the issue with relevant stakeholders including social partners and that the Bangladesh Labour Rules Amendment Committee has proposed a reduction for small family farms and observes from an official English version of the rule that the minimum number has been reduced to 300. ***Observing that the requirement of even 300 workers to form a union in a group of establishments in one district might still be excessive, especially for workers on small family farms, the Committee requests the Government to provide detailed information on the practical application of this requirement, including the number of unions of agricultural workers registered and the number of workers represented and establishments covered by each of these unions, and trusts that further measures will be considered to ensure that agricultural workers can exercise their right to organize without hindrance.***

Articles 2 and 3. Right to organize, elect officers and carry out activities freely. Bangladesh Labour Act. The Committee notes the Government's general indication that all amendments made in 2018 to the BLA are in force and applied from the date of enactment. A National Tripartite Consultative Council (NTCC) formed to deal with national level labour issues meets at regular intervals. The Committee ***regrets*** however that the Government has not provided any further information in relation to the numerous sections for which the Committee has requested amendment, repeal or further information. The Committee recalls that its previous comments concerned the following provisions: (i) scope of the law – restrictions on numerous sectors and workers remain, including, among others, Government workers, university teachers and domestic workers (sections 1(4), 2(49) and (65) and 175); (ii) one remaining restriction on organizing in civil aviation (section 184(1) – the provision should clarify that trade unions in civil aviation can be formed irrespective of whether they wish to affiliate with international federations or not); (iii) restrictions on organizing in groups of establishments (sections 179(5) and 183(1)); (iv) restrictions on trade union membership (sections 2(65), 175, 193 and 300); (v) interference in trade union activity, including cancellation of registration for reasons that do not justify the severity of the act (sections 192, 196(2)(b) read in conjunction with 190(1)(c), (e) and (g), 229, 291(2)–(3) and 299); (vi) interference in trade union elections (section 180(1)(a) read in conjunction with section 196(2)(d), and sections 180(b) and 317(4)(d)); (vii) interference in the right to draw up constitutions freely by providing overly detailed instructions (sections 179(1) and 188 (in addition, there seems to be a discrepancy in that section 188 gives the DOL the power to register and, under certain circumstances, refuse to register any amendments to the constitution of a trade union and its Executive Council whereas Rule 174 of the Bangladesh Labour Rules (BLR) only refers to notification of such changes to the DOL who will issue a new certificate)); (viii) excessive restrictions on the right to strike (sections 211(3)–(4) and (8) and 227(c)) accompanied by severe penalties (sections 196(2)(e), 291(2)–(3) and 294–296); and (ix) excessive preferential rights for collective bargaining agents (sections 202(24)(b), (c) and (e) and 204 (while noting the minor amendments to sections 202 and 204, the Committee notes that these amendments do not address its concerns in that they limit the scope of action of trade unions other than the collective bargaining agents). Furthermore, the Committee is still awaiting information on whether workers in small farms consisting of less than five workers can, in law and practice, group

together with other workers to form a trade union or affiliate to existing workers' organizations (section 1(4)(n) and (p) of the BLA).

The Committee further observes with **concern** the observations from the TU-ILS that the worker nomination to the TCC charged with reviewing the legislation was made by the Government and not by the workers organizations independently and further that the recommendations agreed by the tripartite representatives for amendment to the BLR were not endorsed, stalling the process for some time. Similarly, not all proposals agreed by tripartite representatives in 2018 for the amendment of the BLA were reflected in the final Act. Finally, the TU-ILS indicates that TCC meetings do not take place regularly and alleges that it meets merely to validate government needs. ***The Committee renews its request that the Government amend, repeal, or provide explanations as applicable regarding the provisions of the BLA identified above. In that connection, and noting the information provided by the Government concerning the ongoing review process to be carried out by the NTCC, the Committee urges the Government to take the necessary measures to ensure that the worker representation reflects the independent choice of the Bangladesh trade union movement and requests the Government to schedule regular meetings to expedite the work of the NTCC so that it may review the above provisions of the BLA and bring them fully into line with the Convention.***

Bangladesh Labour Rules. The Committee notes from the Government's progress report to the Governing Body within the framework of the section 26 complaint that the amended BLR were published through gazette notification on 1 September 2022. While the Government has not yet provided an official English version of the Rules, the Committee welcomes the amendment that appears to have been made to Rule 183 clarifying that it is not necessary to form a participation committee in companies where a union is present. It further observes that Rule 204 appears to have been amended to allow all workers to participate in a secret ballot. The Committee further notes that Rule 188, which provides for employer participation in the formation of election committees that conduct the election of worker representatives to participation committees in the absence of a union, has been amended to limit the employer representation to one, giving greater weight to the workers' representation. ***The Committee requests the Government to provide detailed information on the application of Rule 188, as well as on the results of the Government's efforts previously reported to pilot election of worker representatives to participation committees without any representation of employers.*** The Committee however notes with **regret** that the following rules which the Committee had previously requested the Government to address appear not to have been amended in the manner requested: (i) Rule 2(g) and (j) contains a broad definition of administrative and supervisory officers who are excluded from the definition of workers under the BLA and thus from the right to organize; (ii) Rule 85, Schedule IV, sub-rule 1(h) prohibits members of the Safety Committee from initiating or participating in an industrial dispute; (iii) Rule 169(4) limits eligibility to a trade union executive committee to permanent workers, which may adversely affect the right of workers' organizations to elect their officers freely; (iv) Rule 190 prohibits certain categories of workers from voting for worker representatives to participation committees; (v) Rule 202 contains broad restrictions on actions taken by trade unions and participation committees; (vi) Rule 350 provides for excessively broad powers of inspection by the Director of Labour; and (vii) the BLR lacks provisions providing appropriate procedures and remedies for unfair labour practice complaints. ***The Committee deeply regrets that the Government appears not to have taken advantage of the recent revision process to address the above-mentioned concerns and urges it to ensure an expedited review of these remaining issues so that the Bangladesh Labour Rules may be brought fully into conformity with the provisions of the Convention. The Committee further requests the Government to transmit the English version of the Rules.***

Right to organize in Export Processing Zones (EPZs). The Committee recalls its previous comments concerning the need to further amend the Export Processing Zone Labour Act (ELA) of February 2019 to bring it into conformity with the Convention and to issue the rules under the Act to fully ensure freedom of association and, in particular, the right to organize. The Committee takes due note of the

Government's reiteration of the favourable treatment to workers in EPZs through separate laws, rules and regulations and the important improvements made with the adoption of the ELA. The Government adds that a Tripartite Standing Committee was formed in November 2021 to work on the draft Rules for the ELA and consensus was reached on most of them. The proposed draft EPZ Labour rules, contains 15 chapters, 319 rules, 4 schedules and 106 forms, including: prevention of discrimination and conducting investigation against anti WWA activities; provisions on forming a federation; Procedure of formation of employers' association; modalities of DIFE inspection in EPZ; and prevention of misconduct to female workers covering prevention of activities against gender-based violence and harassment etc. The vetting of the proposed draft rules has been completed and the gazette notification of EPZ Labour Rules will be published very soon. The Committee notes that the EPZ Labour Rules were published on 4 October 2022. The Committee **regrets** however that the Government has not provided information as requested on the application in practice of the 2019 amendments, and has only indicated that an impact analysis will cover the period July 2023 to June 2025. The Committee therefore has no information available to it, in particular on the practical implications of these amendments on the number of applications for WWAs and WWA federations submitted and registered. In addition, the Committee observes that Chapter nine of EPZ Labour Rules on Workers' Welfare Association and Industrial Relations contains a number of rules setting out the role of the EPZ Executive Chairperson or Executive Director in the creation of WWAs, WWA Federations, EPZ employer associations, etc, which include a large degree of discretionary authority and opportunities to interfere in elections (i.e., Rules 172(4) (WWA), 183(1) (election management committee), 202(5) (WWA Federation), 211(5) (employers' association)) with recourse only available to the EPZ Labour Courts. ***The Committee once again requests the Government to continue to review the measures concerning the establishment of WWAs and WWA federations, in consultation with the social partners concerned, to endeavour to further reduce, to a reasonable level, the minimum membership requirements to form a WWA, especially in large establishments, as well as for federations, and to allow WWAs and federations to associate with other entities in the same Zone and outside the Zone in which they were established, including with non-EPZ workers' organizations at different levels. The Committee further requests the Government to provide detailed information on the number of applications received for the formation of WWAs, WWA Federations and employers' associations and the number registered.***

While noting from the Government's report to the Governing Body on the progress made in implementing the road map developed within the framework of the article 26 complaint that the Bangladesh Export Processing Zone Authority (BEPZA) is closely engaged with the ILO for improvement of labour standards in EPZs and has held meetings in August and September 2022 regarding amendment of the EPZ Labour Act, 2019, the Committee must reiterate its **deep regret** that most of the changes to the Act that it had requested have still not been addressed. As a result, many of the issues already raised in relation to the 2019 ELA continue under the unchanged EPZ Labour Rules. The Committee must therefore, once again emphasize the need to further review the ELA to ensure its conformity with the Convention regarding the following matters: (i) scope of the law – specific categories of workers continue to be excluded from the law (workers in supervisory and managerial positions – sections 2(48)) or from Chapter IX dealing with WWAs (members of the watch and ward or security staff, drivers, confidential assistants, cipher assistants, casual workers, workers employed by kitchen or food preparation contractors and workers employed in clerical posts (section 93), as well as workers in managerial positions (section 115(2)); (ii) the imposition of association monopoly at enterprise and industrial unit levels (sections 94(6), 97(5) paragraph 2, 100 and 101); (iii) detailed requirements as to the content of a WWA's constitution which go beyond formal and may thus hinder the free establishment of WWAs and constitute interference in the right to draw up constitutions freely (section 96(2)(e) and (o)); (iv) limited definition of the functions of WWA members despite the deletion of the word "mainly" from section 102(3); (v) prohibition to hold an election to the Executive Council during a period of six months (reduced from one year), if a previous election was ineffective because less than

half of the permanent workers of the enterprise cast a vote (section 103(2)–(3)); (vi) prohibition to function without registration and to collect funds for an unregistered association (section 111); (vii) interference in internal affairs by prohibiting expulsion of certain workers from a WWA (section 147); (viii) broad powers and interference of the Zone Authority in internal WWA affairs by the requirement of approval for funds from an outside source (section 96(3)), approval of any amendment in a WWA constitution and Executive Council (section 99), power to arrange elections to the Executive Council of WWAs (section 103(1)) and its approval (section 104), power to rule on the legitimacy of a transfer or termination of a WWA representative (section 121), power to determine the legitimacy of any WWA and its capacity to act as a collective bargaining agent (section 180(c)) and the monitoring of any WWA elections (section 191); (ix) interference by the authorities in internal affairs by allowing supervision of the elections to the WWA Executive Council by the Executive Director (Labour Relations) and the Inspector-General (sections 167(2)(b) and 169(2)(e)); (x) restrictions imposed on the ability to vote and on the eligibility of workers to the Executive Council (sections 103(2) and (4) and 107); (xi) legislative determination of the tenure of the Executive Council (section 105); (xii) broad definition of unfair labour practices, which also include persuasion of a worker to join a WWA during working hours or commencement of an illegal strike, and imposition of penal sanctions for their violation (sections 116(2)(a) and (f), 151(2)–(3) and 155–156); (xiii) power of the Conciliator appointed by the Zone Authority to determine the validity of a strike notice, without which a lawful strike cannot take place (section 128(2) read in conjunction with section 145(a)); (xiv) possibility to prohibit strike or lockout after 30 days or at any time if the Executive Chairman is satisfied that the continuance of the strike or lockout causes serious harm to productivity in the Zone or is prejudicial to public interest or national economy (section 131(3)–(4)); (xv) possibility of unilateral referral of a dispute to the EPZ Labour Court which could result in compulsory arbitration (sections 131(3)–(5) and 132, read in conjunction with section 144(1)); (xvi) prohibition of strike or lockout for three years in a newly established enterprise and imposition of obligatory arbitration (section 131(9)); (xvii) possibility of hiring temporary workers during a legal strike in cases where the Executive Chairman of the Zone Authority is satisfied that complete cessation of work is likely to risk causing serious damage to the machinery or installation of the industry (section 115(1)(g)); (xviii) excessive penalties, including imprisonment, for illegal strikes (sections 155 and 156); (xix) prohibition to engage in activities which are not described in the constitution as objectives of the association (section 178(1)); (xx) prohibition to maintain any linkage with any political party or organization affiliated to a political party or non-governmental organization, as well as possible cancellation of such association and prohibition to form a WWA within one year after such cancellation (section 178(2)–(3)); (xxi) cancellation of a WWA registration on grounds which do not appear to justify the severity of the sanction (sections 109(b)–(h), 178(3)); (xxii) restriction of WWA activities to the territorial limits of the enterprise thus banning any engagement with actors outside the enterprise, including for training or communication (section 102(2)) and, subject to the right to form federations under section 113, prohibition to associate or affiliate with another WWA in the same Zone, another Zone or beyond the Zone, including non-EPZ workers' organizations at all levels (section 102(4)); (xxiii) interference in internal affairs of a WWA federation – legislative determination of the duration of a federation (four years) and determination of the procedure of election and other matters by the Zone Authority (section 113); (xxiv) power of the Government to exempt any owner, group of owners, enterprise or group of enterprises, worker or group of workers from any provision of the Act, subjecting the rule of law to discretionary power (section 184); (xxv) excessive requirements to form an association of employers (section 114(1)); (xxvi) prohibition of an employer association to associate or affiliate in any manner with another association beyond the Zone (section 114(2)); (xxvii) excessive powers of interference in employers' associations' affairs (section 114(3)); and (xxviii) the possibility for the Zone Authority, with the approval of the Government, to establish regulations (section 204) which could further restrain the right of workers and their organizations to carry out legitimate trade union activities without interference. **While taking due note that the Government intends to use the period from 2023**

to 2025 to review the impact of the ELA, the Committee is deeply concerned that an exceptionally large number of provisions still need to be repealed or substantially amended to ensure its conformity with the Convention. The Committee urges the Government to expedite the review of the ELA, in consultation with the social partners, so as to address the issues highlighted above and provide EPZ workers with all the rights guaranteed in the Convention. The Committee requests the Government to report in detail on the steps taken in this regard.

As regards section 168 of the BLA that allows the Chief Inspector and other inspectors appointed under the BLA to undertake inspections of EPZs, the Committee notes the Government's indication that pursuant to the preamble and section 3(A), 4(d), 7 (k) and 5A (2) of the BEPZA Act, BEPZA is the only appropriate authority of the Government for development, operation, management and control of EPZs and for matters connected therewith. The Government indicates that BEPZA as the central and competent authority of the Government is successfully performing its duties and responsibilities of administration and inspection in EPZs for the last four decades without any complaint from workers or investors' as well as any international platform. The Government points out nevertheless that following the ILO's request, the DIFE inspection was incorporated into the BLA and the modalities have been included in the draft EPZ Labour Rules. On 16 May 2022, a review discussion meeting was held between BEPZA and DIFE, presided over by the Minister of Law, Justice and Parliamentary Affairs, regarding a transparent and accountable mechanism of inspection. As of June 2022, DIFE has already inspected 23 factories in EPZs and found overall compliance to be satisfactory. The Committee recalls, however, that DIFE inspectors need the approval of the Executive Chairman to inspect EPZ establishments, while the Chairman retains ultimate supervision of labour standards in EPZs (sections 168(1) and 180(g)). The Committee has considered that such a requirement may hinder the independent nature and proper functioning of labour inspection. The Committee further observes that the EPZ Labour Rules issued on 4 October contain Chapter 13 concerning Administration and Inspection, including a framework for the inspection of DIFE, while Rule 290 provides that the DIFE shall submit the inspection report to the Additional Inspector General of the zones who shall direct the concerned establishment to implement the recommendations which he deems feasible. ***Referring to its more detailed comments on this point made under the Labour Inspection Convention, 1947 (No. 81), the Committee encourages the Government to continue to review the inspection framework set out in the Rules so as to ensure the necessary independence of the DIFE and to continue to provide practical information on the functioning of the DIFE in the zones, the recommendations made and those implemented, as well as statistics on the inspections conducted by the zones Labour Inspectorate. The Committee once again requests the Government to continue to take steps to ensure that unrestricted access for and jurisdiction over labour inspection activities in EPZs is provided to DIFE inspectors.***

Finally, the Committee notes the Government's indication that a Tripartite Implementation and Monitoring Committee (TIMC) has been formed by circular of 11 August 2021 and includes the following responsibilities: (1) to monitor the progress of implementation of the time-bound actions contained in the road map; and (2) to provide overall directions for the implementation of the road map. ***Noting the Government's indication that the technical assistance of both the ILO and development partners is crucial to ensure the successful implementation of the road map over a period of time, the Committee expresses the firm expectation that concrete steps will be taken to ensure timely implementation of the objectives of the road map taking into account all the above comments.***

Barbados

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1967)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it

has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

The Committee takes note of the observations of the International Trade Union Confederation (ITUC) received on 10 September 2014, concerning matters examined under this comment, as well as other allegations of violations of the Convention in the law. The Committee requests the Government to provide its comments in this respect. The Committee also takes note of the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature. The Committee recalls that it has been requesting the Government since 1998 to provide information on developments in the process of reviewing legislation regarding trade union recognition. The Committee notes that the Government indicates that there are no further developments in the process of reviewing legislation regarding trade union recognition, and that a number of the observations made by the ITUC refer to issues concerning trade union registration. ***Hoping that it will be able to observe progress in the near future, the Committee requests the Government to provide information on any development in the legislative review process and it recalls that the Government may avail itself of the technical assistance of the ILO in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Workers' Representatives Convention, 1971 (No. 135) (ratification: 1977)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 1 of the Convention. Protection of workers' representatives. The Committee notes with ***satisfaction*** the adoption of a new Employment Rights Act, which includes protection from dismissal by reason of being, or being proposed to become, an officer, a shop steward, a safety and health representative, or a delegate or member of a trade union, as well as by reason of seeking office or acting as a worker's representative.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Belarus

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1956)

Previous comment

The Committee takes note of the observations of the International Trade Union Confederation (ITUC), received on 15 March 2022 and 1 September 2022, referring to matters addressed in this comment. The Committee also takes note of the comments of the International Organisation of Employers (IOE) received on 25 August 2022, which reiterate the comments made in the discussion that took place in the Conference Committee on the Application of Standards (hereinafter the Conference Committee) in June 2022 on the application of the Convention by Belarus.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

Follow-up to the recommendations of the Commission of Inquiry appointed under article 26 of the Constitution of the ILO

The Committee notes the discussion that took place in the Conference Committee in June 2022 concerning the application of the Convention. The Conference Committee deplored and deeply regretted the allegations of extreme violence to repress peaceful protests and assembly, and the detention, imprisonment and violent treatment of workers while in custody. The Conference Committee further deplored the escalating measures deployed to repress trade union activities, as well as the systemic destruction of independent trade unions. The Conference Committee expressed its deep concern that, 18 years after the Commission of Inquiry's report, the Government had failed to take measures to address most of the Commission's recommendations. The Conference Committee recalled the recommendations of the 2004 Commission of Inquiry noting the failure to make progress on its implementation and the need for their full and effective implementation, without further delay. The Conference Committee urged the Government to: (i) restore without delay full respect for workers' rights in respect of freedom of association; (ii) refrain from the arrest, detention, violent treatment, intimidation or harassment, including judicial harassment, of trade union leaders and members conducting lawful trade union activities; (iii) investigate without delay alleged instances of intimidation or physical violence through an independent judicial inquiry; (iv) immediately release all trade union leaders and members arrested for participating in peaceful assemblies or arrested for exercising their civil liberties pursuant to their legitimate trade union activities and drop all related charges, including for the following persons: Aliaksandr Yarashuk – a member of the Governing Body of the ILO; Siarhei Antusevich, Vice-President of the Belarus Congress of Democratic Trade Unions (BKDP); Gennadiy Fedynich, leader of the Belarusian Union of Radio and Electronics Workers (REP); Mikalai Sharakh, President of the Belarusian Free Trade Union (SPB); Aliaksandr Bukhvostov, President of the Free Trade Union of Metal Workers (SPM); and Zinaida Mikhniuk, Vice-Chairperson of the Belarusian Union of Radio and Electronics Workers (REP); (v) give access, as a matter of urgency, to visitors, including officials of the ILO, to ascertain the conditions of arrest and detention and the welfare of the above-mentioned persons; and (vi) take immediate action to implement fully the 2004 report of the Commission of Inquiry and the conclusions of the Conference Committee on the Application of Standards, including the conclusions adopted by the Committee in 2021. The Committee decided to include its conclusions in a special paragraph of the report and to mention this case as a case of continued failure to implement the Convention.

The Conference Committee also referred this matter to the Governing Body to follow up at its June 2022 session and to consider, at that time, any further measures, including those foreseen in the ILO Constitution, to secure compliance with the recommendations of the Commission of Inquiry. The Committee takes note of the decision of the Governing Body concerning the consideration of any further measures, including those foreseen in the ILO Constitution, to secure compliance by the Government of Belarus with the recommendations of the Commission of Inquiry (GB.346/INS/13(Rev.1)). The Committee notes that the Governing Body at its 346th Session in November 2022: (a) deplored that no progress had been made by the Government of Belarus in implementing the recommendations of the 2004 Commission of Inquiry; (b) urged the Government to ensure full respect for freedom of association and, in particular, revoke all legislative and other measures directly or indirectly having the effect of outlawing independent trade unions or employers' organizations; (c) urged the Government to immediately release all trade union leaders and members arrested for participating in peaceful assemblies or arrested for exercising their civil liberties pursuant to their legitimate trade union activities and drop all related charges; (d) urged the Government to allow the ILO, as a matter of urgency, to ascertain the conditions of arrest and detention and the welfare of the above-mentioned

trade unionists; (e) noted that the Committee of Experts on the Application of Conventions and Recommendations will be reviewing the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) in Belarus at its November–December 2022 meeting; (f) urged the Government to submit all information regarding the measures taken to implement all outstanding recommendations of the Commission of Inquiry and in respect of the more recent developments forming part of the complaint to the Committee on Freedom of Association for its examination at its March 2023 meeting; (g) requested the Director-General to submit to the Governing Body at its 347th Session (March 2023) a document detailing options for measures under article 33 of the ILO Constitution as well as other measures to secure compliance by the Government of Belarus with the recommendations of the Commission of Inquiry taking account of the views expressed; and (h) decided to place on the agenda of the 111th Session (2023) of the International Labour Conference an item concerning measures under article 33 of the ILO Constitution to secure compliance by the Government of Belarus with the recommendations of the Commission of Inquiry.

The Committee notes the above information with **grave concern** as it points to a total lack of progress in implementing the recommendations of the 2004 Commission of Inquiry and in addressing the outstanding recommendations of the ILO supervisory bodies. In this respect, the Committee recalls that in its previous comments it had expressed deep concerns regarding the situation of civil liberties in Belarus and the application of the Convention in law and in practice and had urged the Government to take a number of measures to address them. At the outset, the Committee notes with **deep regret** that in its report, the Government merely reiterates the information it had previously provided and considers that the Committee misunderstands and misinterprets the situation on the ground.

Civil liberties and trade union rights. The Committee recalls that in its previous comment it had noted the continued deterioration of the situation of human rights in the country following the presidential election in August 2020 and in this respect had urged the Government to: (i) investigate without delay all alleged instances of intimidation or physical violence through an independent judicial inquiry and to provide detailed information on the outcome; (ii) take measures for the release of all trade unionists who remain in detention and to drop all charges related to participation in peaceful protest action; (iii) take all the necessary measures, including legislative, if necessary, to ensure the right to a fair trial and an impartial and independent judiciary and justice administration; (iv) ensure impartial and independent judiciary and justice administration in general in order to guarantee that investigations into these grave allegations are truly independent, neutral, objective and impartial; and (v) supply copies of the relevant court decisions upholding detention and imprisonment of workers and trade unionists. The Committee notes with **deep regret** that the Government reiterates that: (i) the citizens referred to in the complaints made by trade union organizations as having allegedly suffered for their participation in peaceful protests and strikes were charged with disciplinary, administrative and, in certain cases, criminal offences for having committed specific illegal actions. The bringing of these citizens to justice has nothing to do with persecution for the exercise of their civil or trade union rights and freedoms; (ii) article 60 of the Constitution guarantees the protection of the rights and freedoms of all by a competent, independent and impartial judiciary. Any interference with the courts' administration of justice is prohibited and punishable by law. All trials are public. The adversarial principle and equality of parties in proceedings apply and the parties have the right to appeal; (iii) domestic law does not provide for supplying copies of court verdicts to persons with no connection to the trial. The ILO supervisory bodies can obtain the requested copies from the persons authorized to have access to verdicts.

The Committee notes that the UN High Commissioner for Human Rights indicated in her 2022 *Report on the situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath* that in response to the protests between 9 and 14 August 2020 "individuals were targeted following a consistent pattern of unnecessary or disproportionate use of force, arrests, detention (including incommunicado detention), and torture or ill-treatment, including rape and sexual and

gender-based violence, and the systematic denial of the rights to due process and to a fair trial. The failure to effectively investigate human rights violations, including allegations of torture or other ill-treatment, is a contravention of the State's obligations under international human rights law. Furthermore, OHCHR found that, besides the lack of investigation, there was an active policy to shield perpetrators and prevent accountability, reflected in the degree of reprisals, intimidation of victims and witnesses, and attacks on lawyers and human rights defenders".

The Committee recalls that the International Labour Conference 1970 resolution concerning trade union rights and their relation to civil liberties, emphasizes that the rights conferred upon workers' and employers' organizations must be based on respect for civil liberties, as their absence removes all meaning from the concept of trade union rights. The Committee considers that the failure of the Government to reply to very serious allegations of violation of civil liberties or to address the repeated specific requests of the ILO supervisory bodies, including those made by this Committee, reinforces the reality of wilful Government noncompliance with its obligations under the Convention.

The Committee notes with **deep concern** that while the Government fails to reply to its previous comments, new allegations of arbitrary arrest, detention, prosecution and criminal sanctions against trade union leaders and members, as well as searches conducted in their homes have been submitted by the ITUC. In this regard, the Committee notes that the ITUC denounces, as did several speakers at the Conference Committee in June 2022, the imprisonment of the following 17 unionists, all leaders and members of the BKDP and its affiliates: Aliaksandr Yarashuk; Siarhei Antusevich; Hennadzy Fiadynich; Vatslau Areshka; Mikhail Hromau; Iryna But-Husaim; Miraslau Sabchuk; Yanina Malash; Vitali Chychmarou; Vasil Berasneu; Zinaida Mikhniuk; Aliaksandr Mishuk; Ihar Povarau; Yauhen Hovar; Artsiom Zhernak; Mikalaj Sharakh; and Andrei Khanevich. The Committee **deplores** the Government's unwillingness to immediately release trade union leaders and members as urged by the Conference Committee above. **Accordingly, this Committee urges the Government to immediately release all trade union leaders and members arrested for participating in peaceful assemblies or for exercising their civil liberties pursuant to their legitimate trade union activities, and to drop all related charges. The Committee also urges the Government to provide detailed information concerning the situation of these trade unionists, including charges brought against them, and give access, as a matter of urgency, to visitors, including officials of the ILO, to ascertain the conditions of arrest and detention and the welfare of the above-mentioned persons. If in the meantime, any of the above trade unionists have been brought to court, the Committee urges the Government to provide information on the outcome of any proceedings undertaken against them and to communicate copies of any court decisions issued in their cases.**

Application of the Convention. The Committee recalls that the outstanding issues of the application of the Convention relate to the following concerns: (1) right to establish workers' organizations, which includes the issue of legal address and the right, in practice, to form trade unions outside the Federation of Trade Unions of Belarus (FPB); (2) the right of workers' organizations to receive and use foreign gratuitous aid (funding obtained from abroad); (3) the right, in law and in practice, to demonstrate and hold mass events; (4) the right to strike; (5) consultation with organizations of workers and employers; and (6) labour disputes resolution system. The Committee observes with **deep regret** the absence of information on the concrete measures taken by the Government to give effect to the Committee's previous requests aimed at addressing these concerns; instead, the Government merely reiterates the information it has previously provided.

The Committee also notes with the **utmost concern** the following new information provided by the Government, which attests to further deterioration in the status of freedom of association in the country. The Government indicates that following the presidential election in August 2020, the activities of certain trade unions became highly unconstructive and politicized. Instead of performing their tasks of protecting citizens' labour and socio-economic rights and interests, taking action to warn workers against participation in illegal protest actions of a political nature at their enterprises and informing

their members of the illegal nature of such actions, which in a number of cases posed a serious threat to public order and the safety of the population, representatives of the BKDP and leaders and members of its affiliated trade unions participated in destructive acts and unauthorized mass activities aimed at achieving regime change by unconstitutional means. These trade unions, according to the Government, indulged in behaviour which contradicted the Constitution and other pieces of national legislation and which focused not on their statutory tasks and objectives but on active participation in illegal activities and their popularization. In order to prevent further violations of the legislation, applications were made to the Prosecutor General and the Supreme Court to halt the activities of the BKDP and its member trade unions. At the petition of the Prosecutor General, the Supreme Court issued rulings to discontinue the activities of the Free Trade Union of Belarus (SPB), the Free Trade Union of Metalworkers (SPM), the Belarusian Independent Union of Mining, Chemical, Oil Industry, Energy, Transport, Construction and other Workers (BNP affiliate), the Radio Electronics Workers (REP) Union and the BKDP. Pursuant to the deliberations of the Court, it was established that instead of defending the labour and socio-economic rights of workers, the leaders and a number of members of these trade unions participated actively in destructive activities and mass events which violated public order, and also distributed information material with extremist content. The Supreme Court in its verdicts found violations of the Constitution, the Trade Unions Act and other national laws and regulations on matters concerning the receipt and use of foreign gratuitous aid. The Committee *deplores* that following these court decisions, the BKDP and its affiliate organizations at all levels have now ceased to operate in the country.

The Committee recalls that the Commission of Inquiry had requested the Government to amend Presidential Decree No. 24 (2003) on Receiving and Using Foreign Gratuitous Aid. The Committee for a number of years has been asking the Government to abolish the sanctions imposed on trade unions (liquidation of an organization) for a single violation of the Decree and to widen the scope of activities for which foreign financial assistance can be used so as to include events organized by trade unions. The Committee recalls that Decree No. 24 had been superseded by Presidential Decree No. 5 (2015) and then by Decree No. 3 of 25 May 2020, under which the foreign gratuitous aid could still not be used to organize or hold assemblies, rallies, street marches, demonstrations, pickets or strikes, or to produce or distribute campaign materials, hold seminars or carry out other forms of activities aimed at “political and mass propaganda work among the population”, and that a single violation of the Regulation still bore the sanction of possible liquidation of the organization. The Committee observed that the broad expression “political and mass propaganda work among the population” when applied to trade unions may hinder the exercise of their rights as it is normal and inevitable for trade unions to take a stand on questions having political aspects that affect their socio-economic interests, as well as on purely economic or social questions.

The Committee further recalls that the Commission of Inquiry had requested the Government to amend the Law on Mass Activities, under which, a trade union that violates the procedure for organizing and holding mass events may, in the case of serious damage or substantial harm to the rights and legal interests of other citizens and organizations, be liquidated for a single violation. Following its 2021 amendment, the Law makes an organization responsible if its leaders and members of their governing bodies make public calls for organizing a mass event before permission to organize the event is granted.

Finally, the Committee recalls that it had noted with regret the Regulation on the procedure requiring payment for services provided by the internal affairs authorities in respect of protection of public order, which outlines the fees that must be paid by the organizer of a mass event in relation to maintenance of public services and the expenses of the specialized bodies (medical care and cleaning services) following such an event.

Reading these provisions alongside those forbidding the use of foreign gratuitous aid for the conduct of mass events, the Committee had considered that the capacity for carrying out mass actions would appear to be extremely limited if not non-existent in practice. The Committee therefore urged the Government to amend Decree No. 3 of 25 May 2020 on the registration and use of foreign gratuitous

aid, the Law on Mass Activities and the accompanying Regulation, and recalled that the amendments should be directed at abolishing the sanctions imposed on trade unions or trade unionists for a single violation of the respective legislation; at setting out clear grounds for the denial of requests to hold trade union mass events, bearing in mind that any such restriction should be in conformity with freedom of association principles; and at widening the scope of activities for which foreign financial assistance can be used.

In addition, the Committee had noted that the Criminal Code was amended in 2021 so as to introduce the following restrictions and associated penalties: repeated violations of the procedure for organizing and holding of mass events, including public calls therefor, are punishable by arrest, or restraint of liberty or imprisonment of up to three years (section 342-2); insult of a government official is punishable by a fine and/or restriction of liberty or imprisonment for up to three years (section 369); the penalty for “discrediting the Republic of Belarus” was increased from two to four years imprisonment with a fine (section 369-1); section 369-3 of the Criminal Code has been retitled from “violation of procedure for organizing and holding of mass events” to “public calls for the organization or conduct of an illegal meeting, rally, street procession, demonstration or picketing, or the involvement of persons in such mass events”, which became an offence punishable by up to five years of imprisonment. The Committee recalls the BKDP allegation that criminal liability can be established simply for organizing peaceful assemblies and that any criticism and slogans are seen by the authorities as insults within the meaning of section 369 of the Criminal Code and that BKDP’s leaders were under the threat of being prosecuted under section 369-1 of the Criminal Code for calling for a boycott of Belarusian goods and application of sanctions. The Committee expresses its **deep concern** that trade unionists’ speaking at the International Labour Conference, engaging with the ILO, and in case of Mr Yarashuk, being a member of the ILO Governing Body, could well have been interpreted by the authorities as “discrediting the Republic of Belarus”, punishable by four years of imprisonment.

The Committee notes the Government’s renewed reiteration that there is no link between the established procedure for obtaining funding from abroad (foreign gratuitous aid) and *Articles 5 and 6* of the Convention. The Government once again points out that allowing external forces (in this case the trade unions of other countries and international trade union associations) to sponsor the holding of mass events in Belarus can present an opportunity to destabilize the socio-political and socio-economic situation, which in turn has an extremely negative effect on public life and citizens’ wellbeing. Thus, the existing ban on receiving and using foreign gratuitous aid for the purposes of conducting political and mass propaganda work among the population is bound up with the interests of national security, and the need to exclude any possible destructive influence and pressure from external forces. The Government further reiterates that the exercise of the right of peaceful assembly is not subject to any restrictions, except those that are imposed in conformity with the law and are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals, the protection of the rights and freedoms of others. In holding mass events, trade unions are obliged to observe public order and must not permit actions which may cause an event to lose its peaceful character and inflict serious harm on citizens, society or the State. In the Government’s view, the legal penalty prescribed for organizers of mass events which cause substantial damage or harm to the interests of citizens and organizations, and also to the interests of State and society, does not constitute, and should not be interpreted as, a constraining factor on the exercise of rights to freedom of peaceful assembly by citizens and trade unions. In light of the above, the Government considers that any relaxation of responsibility for violation of the procedure for holding mass events or any lifting of restrictions on the use of foreign financial aid for the holding of political and mass propaganda work could only lead to circumstances likely to strengthen the external destructive influence on the situation in the country, which does not serve the interests of the country.

The Committee notes with **deep regret** that the Government has no intention of amending the legislation as requested by the Commission of Inquiry, whose recommendations the Government

accepted as per article 29(2) of the ILO Constitution nearly 20 years ago. **The Committee therefore reiterates its previous request to amend without further delay Decree No. 3, the Law on Mass Activities and the accompanying Regulation. The Committee further requests the Government to repeal the above-mentioned provisions of the Criminal Code in order to bring them into compliance with the Government's international obligations regarding freedom of association. The Committee expects the Government to provide information on all steps taken in this regard.**

The Committee recalls that it had been requesting the Government for a number of years to amend sections 388(1), (3) and (4), 390, 392 and 393 of the Labour Code restricting the right to strike; as well as its section 42 (7), which expressly allows an employer to dismiss/terminate a labour contract with a worker who is absent from work in connection with serving an administrative penalty in the form of an administrative arrest; who forces other workers to participate in a strike or calls on other workers to stop performing work duties without sound reason; and who participates in an illegal strike or other forms of withholding labour without sound reasons. The Committee recalls the BKDP allegations that numerous trade unionists who participated in mass events and strikes organized following the August 2020 Presidential election were found guilty of administrative breaches and received corresponding penalty in the form of administrative arrest, and consequently dismissed. The Committee **regrets** that the Government merely reiterates its previous view that the national legislation is in conformity with the international labour instruments; that in Belarus, according to section 388 of the Labour Code, a strike constitutes a temporary and voluntary refusal by workers to perform their employment duties (fully or in part) for the purpose of settling a collective labour dispute; and that strikes of political nature are forbidden. The Committee recalls since the maintaining of the employment relationship is a normal consequence of recognition of the right to strike, its lawful exercise should not result in striking workers being dismissed or discriminated against (2012 General Survey on the fundamental Conventions, paragraph 161). **The Committee is therefore bound to urge the Government to take measures to revise the above-mentioned legislative provisions, which negatively affect the right of workers' organizations to organize their activities in full freedom, and to provide information on all measures taken or envisaged to that end.**

The Committee **deplores** the effect of the dissolution of the BKDP on the work of the National Council on Labour and Social Issues (NCLSI) and of the tripartite Council for the Improvement of Legislation in the Social and Labour Sphere (the tripartite Council). With the dissolution of the BKDP, the only representation of workers' voice in these structures is now the FPB. The Committee had previously noted the publicly expressed support for that organization from State authorities at the highest level. The Conference Committee conclusions at its June 2021 session, reproduced in full in 2022, refer to support for the FPB from the President of the country, and urge the Government in the strongest terms to refrain from showing favouritism towards any particular trade union. The Committee recalls in this respect – as it has before – the importance of ensuring an atmosphere in which trade union organizations, whether within or outside the traditional structure, are able to flourish in the country. In these circumstances, the Committee questions the continuing legitimacy of the NCLSI and the tripartite Council.

The Committee emphasizes that pursuant to *Article 11* of the Convention, each ILO Member for which the Convention is in force shall take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organize. The Committee considers that the development of free and independent organizations and their involvement in social dialogue is indispensable to enable a government to confront its social and economic problems and resolve them in the best interests of the workers and the nation. **The Committee urges the Government to take steps to review the situation of the dissolved trade unions in this light so as to ensure that they may again function.**

The Committee recalls that in its 2004 report, the Commission of Inquiry considered that its recommendations should be implemented without further delay and that the majority of its

recommendations should be completed at the latest by 1 June 2005. The Committee **deplores** that 18 years later, the recent developments indicate continuing steps backward as all space for the safe existence of an independent trade union movement in Belarus has virtually disappeared. **The Committee urges the Government to abandon its policy of destroying the independent trade union movement and silencing the free voices of workers. The Committee urges the Government to engage with the ILO with a view to fully implement all outstanding recommendations of the ILO supervisory bodies without further delay.**

Belize

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1983)

Previous comment

Article 3 of the Convention. Compulsory arbitration. In its previous comments, the Committee requested the Government to amend the Settlement of Disputes in Essential Services Act 1939 (SDESA), which empowers the authorities to refer a collective dispute to compulsory arbitration to prohibit a strike or to terminate a strike in the banking sector, civil aviation, port authority, postal services, social security scheme and the petroleum sector, i.e. services that are not essential in the strict sense of the term. The Committee notes with **regret** the Government's indication that the SDESA has not been amended. **The Committee therefore reiterates its long-standing request and urges the Government to provide information on the steps taken, in consultation with the social partners, to amend the Schedule to the SDESA in order to ensure that compulsory arbitration or a prohibition on strikes is permitted only in services that are essential in the strict sense of the term – that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population.**

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1983)

Previous comment

Articles 1 and 3 of the Convention. Protection against acts of anti-union discrimination. In its previous comments, the Committee recalled allegations by the International Trade Union Confederation (ITUC) of anti-union discrimination in the banana plantation sector and in export processing zones and requested the Government to ensure that the competent authorities take fully into account in their control and prevention activities the issue of anti-union discrimination, and that the workers in the country are fully informed of their rights regarding this issue. The Committee notes that the Government states that no acts of anti-union discrimination were denounced to the authorities in the above-mentioned sectors during the reporting period (July 2017 to June 2021). The Committee also notes the Government's indication that its Labour Department has been closely monitoring these sectors by conducting inspections of workplaces to ensure that workers are adequately protected, including against acts of anti-union discrimination in respect of their employment. **While it welcomes the information provided regarding the conduct of labour inspections, the Committee requests the Government to take all the necessary measures to ensure that Belizean workers are fully informed of their rights with respect to anti-union discrimination. The Committee requests the Government to provide information on any developments in this regard and to continue reporting on any statistics concerning the anti-union discrimination acts reported to the authorities.**

Article 4. Promotion of collective bargaining. In its previous comments under the Collective Bargaining Convention, 1981 (No. 154), the Committee raised the need to amend section 25 of the Trade

Unions and Employers' Organizations (Registration, Recognition and Status) Act (TUEOA), which provides that the tripartite body entrusted with the certification of the representative trade unions may, before granting any certification to a trade union, include additional employees to the bargaining unit, or exclude some employees therefrom in order to render the unit more appropriate. The Committee notes that the Government states that section 25 of the TUEOA was not amended but that discussions continue at the Labour Advisory Board and the Tripartite Body regarding the TUEOA, which is likely to be amalgamated with the Trade Unions Act. ***Taking note of the above, the Committee requests the Government to take the necessary measures to ensure that objective and pre-established criteria for the certification of the representative trade unions are provided under the new legislation. The Committee requests the Government to provide information of any progress made in this regard and to provide a copy of the text once adopted.***

The Committee previously requested the Government to continue promoting social dialogue in order to bring section 27(2) of the TUEOA, which stipulates that a trade union may be certified as the bargaining agent if it is supported by at least 51 per cent of employees, into conformity with the Convention. The Committee notes that the Government states that no agreement was reached on any legislative changes in this regard, but that discussions continue at the Tripartite Body and the Labour Advisory Board regarding a proposed new Trade Union and Employers' Organizations Act which would amalgamate the Trade Unions Act and the TUEOA. The Committee recalls that the requirement of too high a percentage for representativity to be authorized to engage in collective bargaining may hamper the promotion and development of free and voluntary collective bargaining within the meaning of the Convention (2012 General Survey on the fundamental Conventions, paragraph 233). Noting the Government's indication that ten collective agreements covering a total of 1,592 workers were concluded between 2007 and 2021, the Committee considers that the very low coverage of collective agreements in the country could appear to be related to the restrictive requirements to engage in collective bargaining contained in the legislation. In this regard, the Committee also recalls that under a system of the designation of an exclusive bargaining agent, if no union represents the required percentage of workers to be declared the exclusive bargaining agent, collective bargaining rights should be granted to all the unions in the unit, at least on behalf of their own members (2012 General Survey on the fundamental Conventions, paragraph 234). ***The Committee requests the Government to take the necessary measures, within the framework of the discussions concerning the proposed new Trade Union and Employers' Organizations Act, to bring its legislation into line with the Convention with respect to the representativity of bargaining agents. The Committee requests the Government to provide information on any developments in this regard and reminds it of the possibility to avail itself of ILO technical assistance.***

Promotion of collective bargaining in practice. As already mentioned above, the Committee notes that the Government reports that the ten collective agreements reached between 2007 and 2021 were concluded in the energy, public services, port, communications, banking, food and municipal sectors, and that five of these agreements, including one which was renewed, were still in force at the end of the reporting period. ***The Committee requests the Government to continue providing information on the number of collective agreements signed and in force in the country, the sectors concerned and the number of workers covered by these agreements, and to report on any measures taken to promote the full development and utilization of collective bargaining under the Convention.***

Brazil

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1952)

Previous comment

The Committee notes the observations of the National Confederation of Workers in Teaching Establishments (CONTEE), the International Trade Union Confederation (ITUC) and the Single Confederation of Workers (CUT), received respectively on 28 March, 1 and 2 September 2022, and which concern matters examined by the Committee in the present comment.

The Committee also notes the joint observations of the International Organisation of Employers (IOE) and of the National Confederation of Industry (CNI) received on 30 August 2022 and which also concern matters examined by the Committee in the present comment.

The Committee recalls that in its previous comment, it requested the Government to respond to the observations submitted in 2021 by the ITUC, the CUT and the CONTEE which contain, in particular, allegations relating to: (i) the assassination of three trade union leaders in 2020 and several cases of death threats; and (ii) increased violations of collective bargaining rights in the context of the economic crisis resulting from the COVID-19 pandemic.

In this regard, the Committee notes the Government's comments in response to the various observations submitted. Concerning the Government's response to the 2021 allegations by the CUT on the adoption of emergency measures in the context of the COVID-19 pandemic which may have violated the right to collective bargaining, through the introduction of Provisional Measure 1045/2021 (PM 1045/2021), the Committee notes the Government's indication that PM 1045/2021 is no longer in force. However, the Committee also notes from the 2022 observations made by the CUT that certain measures and provisions contained in PM 1045/2021 that were criticized in the Committee's previous comment have been reintroduced in positive law through Acts Nos 14.437/2022 and 14.370/2022. **The Committee requests the Government to provide its comments in this respect.**

Application of the Convention and respect for civil liberties. In its previous comments, the Committee noted the ITUC's allegations relating to the assassination of three trade union leaders and trade unionists in 2020, as well as several cases of death threats against other trade union leaders and had requested the Government to provide its comments in this regard. The Committee notes with **regret** that the Government confines itself to indicating in a general manner that Brazilian legal system is equipped with the necessary mechanisms to prosecute and sanction possible perpetrators of acts of anti-union violence, without giving any information on the different acts to which the ITUC refers. In this regard, the Committee notes with **deep concern** the following allegations made by the ITUC: (i) the assassination on 28 February 2020 of Mr Paulo Silva Filho, member of the Federation of Rural Workers and Family Farmers of the State of Pará (FETAGRI-PA); (ii) the assassination on 23 July 2020 of Mr José Diaz Hamilton de Moura, President of the Union of Drivers and Goods Transport Workers, Transport Logistics and Specialized Enterprises of Belo Horizonte and the region (SIMECLODIF); (iii) the assassination on 6 November 2020 of Mr João Inácio da Silva, President of the Workers' Cooperative of Montes Belos; (iv) the death threats received in 2020, and related to their trade union activities, by Mrs Tamyres Filgueira, coordinator of the Union of Technical and Administrative Workers of the UFRGS, UFCSPA and IFRS (ASSUFRGS); Mr Aldo Lima, President of the Union of Heavy Goods Drivers of Recife and by the union leaders of the Union of Oil Workers of São José dos Campos and its region. **Recalling that the rights contained in the Convention, in particular those relating to free and voluntary collective bargaining, can only be exercised in a climate free from violence and threats, The Committee urges the Government to ensure that the necessary measures are taken to: (i) identify and punish the perpetrators and instigators of the alleged crimes; and (ii) ensure effective protection for the trade**

union leaders whose bodily integrity is under threat. The Committee requests the Government to provide information in this regard without delay.

Article 4. Promotion of collective bargaining. Application of the provisions of Act No. 13.467 regarding collective bargaining in the context of the COVID-19 pandemic. The Committee recalls that in its previous comments it had asked the Government to make, in consultation with the representative social partners, a certain number of amendments to the provisions of Act No. 13.467 of 2017 related to collective bargaining, in particular concerning the possibility to derogate through collective bargaining a substantial number of protective provisions of the labour legislation, and those provisions allowing, for certain categories of workers, the setting aside, through individual labour contracts, of the protective clauses of collective agreements. In their 2021 observations, the ITUC, the CUT and the CONTEE expressed concern at the implementation of these provisions in the context of the economic crisis provoked by the COVID-19 pandemic, which could, in their view, result in workers being obliged to accept a steep deterioration in their conditions of work and employment. The Committee notes the Government's indications, which coincide with those of the CNI and the IOE to the effect that: (i) since the 2017 reform, the number of collective agreements concluded has remained relatively stable, going from 47,572 in 2017 to 42,303 in 2019 (-11 per cent), falling to 36,011 in 2020, as a result of the COVID-19 pandemic, and going back up to 41,951 agreements concluded in 2021; (ii) the 21 per cent fall in unionization underlined by the ITUC cannot be imputed to the 2017 reform, but is part of a long-term phenomenon also visible in numerous other countries; (iii) the primacy of collective bargaining over labour legislation (except for constitutionally protected rights) – recognized as constitutional by the Supreme Federal Court by a judgment of June 2022 – allowed the social partners to decide together on the best approaches to the crisis, according to their specific situations, and to guarantee the legal security of the agreements concluded; and (iv) the economic and social effects of the crisis were greatly reduced by the special protection measures taken by the Government.

The Committee duly notes the elements provided by the Government at the same time noting that the 2022 observations of the ITUC, CUT and the CONTEE maintain similar allegations to those of previous years. ***While reiterating its previous comments relating to the need to revise the different aspects of Act No. 13.467 cited above, in order to ensure their compliance with Article 4 of the Convention, the Committee requests the Government to continue to communicate statistics on the number of collective agreements concluded, specifying their level (enterprise or sector), the sectors concerned, and the number of workers covered. The Committee also requests the Government to provide information on the frequency of agreements that contain clauses derogating from the legislation, giving details of the nature and scope of such clauses.***

Finally, the Committee notes the elements provided by the Government regarding the other points examined by the Committee in its previous comments and concerning the application of *Articles 1 and 4* of the Convention. The Committee notes that the positions taken, and the information provided are essentially the same as those provided by the Government in its previous reports. ***The Committee, while reiterating its previous comments, will examine these matters in the framework of the regular reporting cycle and requests the Government to provide all relevant information in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Chad

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the

examination of the application of the Convention on the basis of the information at its disposal at its next session.

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019, which allege violations of the trade union rights in law and in practice, as well as the Government's response thereto, dated 11 October 2019. The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature. It also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2016, relating to: (i) the legal procedures governing the right to strike; (ii) cases of serious violations of trade union and fundamental rights; and (iii) the determination of essential services. **The Committee requests the Government to provide its comments in this regard.**

Articles 2 and 3 of the Convention. Labour Code. In its previous comments, the Committee requested the Government to take measures to amend section 294(3) of the Labour Code, under the terms of which minors under 16 years of age may join a union, unless their father, mother or guardian objects, with a view to recognizing the trade union rights of minors who have reached the statutory minimum age to enter the labour market in accordance with the Labour Code (14 years), either as workers or apprentices, without the intervention of their parents or guardians. The Committee also drew the Government's attention to the need to take the necessary measures to amend section 307 of the Labour Code, to ensure that monitoring by the public authorities of trade union finances does not go beyond the obligation of organizations to submit periodic reports. The Committee noted the Government's indication that this provision has never been applied and that it was removed in the draft revision of the Labour Code. The Committee notes the Government's statement that the concerns of the Committee have been taken into account in the revision of the Act issuing the Labour Code, even though the latter has not yet been promulgated. **The Committee trusts that the Labour Code will be promulgated in the near future and that it will give full effect to the provisions of the Convention on the points recalled above. It requests the Government to provide a copy of the text as adopted.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Comoros

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1978)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations of the Workers' Confederation of Comoros (CTC), received on 1 August 2017, relating to matters examined by the Committee in the present observation, and it requests the Government to provide its comments in this regard. The Committee notes that, in response to the observations of the CTC in 2013, the Government indicates that the trade union leaders who had been dismissed have been reinstated. **The Committee requests the Government to provide its comments on the other matters raised by the CTC, and particularly the allegations of employer pressure against trade union leaders of the CTC, the Union of Health and Education Workers and a new trade union in a communications enterprise to persuade them to end their trade union activities.**

Articles 4 and 6 of the Convention. Promotion of collective bargaining in the private and public sectors (employees of public enterprises and public servants not engaged in the administration of the State). In its previous comments, the Committee once again regretted the absence of progress in relation to collective bargaining which, according to the CTC, was not structured and had no framework at any level, and particularly that joint bodies in the public service had still not been established. The Committee notes that the CTC in its 2017 observations makes particular reference to decrees and implementing orders covering the Higher Council of the Public Service, the Joint Commission and the Medical Commission established to provide a framework for bargaining, but which have still not been signed following their preparation in 2015, thereby opening the way for regulations and measures which are not in conformity with the law to the prejudice of employees of

the public service. ***While taking note of the request made by the Government in its report for technical assistance, the Committee urges the Government to take the necessary measures to promote collective bargaining in both the private and the public sectors (employees of public enterprises and public servants not engaged in the administration of the State). The Committee requests the Government to provide information on this subject.***

The Committee notes the adoption of the Act of 28 June 2012 repealing, amending and supplementing certain provisions of Act No. 84-108/PR issuing the Labour Code.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Djibouti

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1978)

Previous comment

The Committee notes the Government's communication, dated 17 November 2019, in response to the allegations made in 2019 by the Labour Union of Djibouti (UDT) and the General Union of Djibouti Workers (UGTD), and by Education International (EI), concerning ongoing violations of freedom of association in Djibouti. The Committee notes, however, that the Government has not provided the information requested on the reasons why Mr Mohamed Abdou was prohibited from leaving the country and prevented from participating in the 103rd Session of the International Labour Conference (May-June 2014). Noting that the recent observations of the UDT and the UGTD no longer refer to this matter, the Committee trusts that Mr Abdou is no longer subject to such prohibitions.

Trade union situation in Djibouti. The Committee recalls that allegations of violations of freedom of association in the country are repeatedly brought before the ILO supervisory bodies and that mention is often made of the phenomenon of "clone unions" (duplication of trade union organizations, established with the Government's support). The Committee notes that the Government merely reiterates that this phenomenon of "cloning" trade union organizations does not exist in Djibouti and that the representation of the UDT and the UGTD continues to be usurped by Mr Mohamed Abdou and Mr Diraneh Hared, authors of the observations addressed to the Committee. In this respect, the Committee notes the findings of the Credentials Committee of the 110th Session of the Conference (June 2022) on a new objection concerning the appointment of the Workers' delegation. The Committee notes with **deep concern** the Credentials Committee's indication that confusion continues to reign over the trade union landscape in Djibouti. The Credentials Committee particularly regrets that the Government has not addressed the allegations repeated every year by the objecting organizations concerning the "cloning" of the UDT and UGTD and usurpation of their names, "other than by stating flatly that the authors of the objection had no legitimate union mandate, without any explanation as to how, in particular, Mr Mohamed Abdou might have lost the leadership of the UDT, which he undoubtedly held in the past". ***Noting the information from the Credentials Committee that the Government has stated that it accepts the terms for technical assistance from the Office to proceed with an evaluation of the situation of the trade union movement in the country, the Committee firmly urges the Government to take concrete measures to this effect in the near future, with a view to ensuring the development of free and independent trade unions in accordance with the Convention.***

Article 3 of the Convention. Right of workers' organizations to organize their administration and activities in full freedom. The Committee once again notes with **regret** that the Government has not provided the information expected concerning the need to amend:

- section 5 of the Act on Associations, which requires organizations to obtain authorization prior to their establishment as trade unions; and
- section 23 of Decree No. 83-099/PR/FP of 10 September 1983, which confers upon the President of the Republic broad powers to requisition public servants.

The Committee trusts that the Government will take all measures necessary to amend the above provisions and will report on specific progress in its next report.

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1978)

Previous comment

Article 1 of the Convention. Protection against acts of anti-union discrimination. The Committee notes the Government's communication, in response to the allegations made in 2019 by the Labour Union of Djibouti (UDT) and the General Union of Djibouti Workers (UGTD), and by Education International (EI), concerning the persistence of anti-union discrimination in the education and rail transport sectors. The Committee notes in particular the Government's indication that decisions must be taken to discontinue criminal proceedings against the teachers who had been arrested in 2019 in the context of the case of the Baccalaureate exams, and that most of the railway workers concerned following the 2019 social conflict have been reintegrated into their posts. With regard to the transfers described as "punitive", concerning the leaders of the teachers' trade unions, the Government denies the allegations, however. ***Noting that the information brought to its knowledge does not provide a definitive reply to all the allegations presented by EI, UDT and UGTD, and recalling the obligation, under the terms of the Convention, to ensure that workers are adequately protected against anti-union discrimination, the Committee requests the Government to take the measures required to ensure full respect of Article 1 of the Convention in the above-mentioned activity sectors.***

Article 4. Right of collective bargaining in practice. The Committee notes the information provided by the Government in its report concerning the draft inter-occupational collective agreement, which was examined and approved unanimously in September 2020, by the members of the National Council for Labour, Employment and Social Security (CONTESS). ***The Committee requests the Government to provide information on any developments in this regard, and on the total number of collective agreements signed and in force in the country, the sectors concerned and the number of workers covered by these agreements.***

Dominica

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1983)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

The Committee notes with **deep concern** that the Government's report, due since 2013, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Convention on the basis of whatever information is at its disposal. The Committee recalls that it has been raising issues concerning the observance of the Convention in relation to certain sections of the Industrial Relations Act (Act No. 18 of 1986) concerning compulsory arbitration and

which unduly restrict the right of workers' organizations to organize their activities in full freedom and to formulate their programmes. The Government has been requested to make the following amendments to the Act: (i) exclude the banana, citrus and coconut industries as well as the port authority, from the schedule of essential services annexed to the Act, which makes it possible to stop a strike in these sectors by compulsory arbitration, and (ii) amend sections 59(1)(b) and 61(1)(c) of the Act, which empower the Minister to refer disputes to compulsory arbitration if they concerned serious issues in his or her opinion. ***Not having received any additional observations from the social partners, nor having at its disposal any indication of progress on these pending matters, the Committee refers to its previous observation adopted in 2011 and urges the Government to provide a full reply thereto. To this end, the Committee recalls that the Government may avail itself of the ILO's technical assistance.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Ecuador

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1967)

Previous comment

Discussion at the International Labour Conference, May–June 2022

The Committee notes the observations of the Trade Union Association of Agricultural, Banana and Rural Workers (ASTAC), received on 30 August 2022, which refer to issues that the Committee will examine in this comment. The Committee also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022, which refer to issues examined in this comment and allege the murder on 24 January 2022 of Mr Sandro Arteaga Quiroz, secretary of the Union of Workers of the Manabi Provincial Government, who had allegedly received death threats hours before his murder. The ITUC also alleges clashes between police and protesters in the context of a nationwide strike in October 2021 that culminated in the arrest of 37 protesters. The Committee recalls that the authorities should not resort to arrest and detention measures in cases of organization or participation in a peaceful strike. The Committee ***deplores*** the murder of Mr Arteaga Quiroz. ***Recalling that freedom of association can only be exercised in conditions in which fundamental human rights, in particular those relating to life and personal safety, are fully respected and guaranteed, the Committee strongly urges the Government to take without delay all necessary measures to determine responsibility and punish those guilty of this crime.***

The Committee also notes the joint observations of the Ecuadorian Confederation of Free Trade Unions (CEOSL), the Federation of Petroleum Workers of Ecuador (FETRAPEC), the National Federation of Education Workers (UNE) and Public Services International (PSI) in Ecuador, received on 1 September 2022, which in addition to dealing in detail with issues that the Committee addresses in this comment, allege unjustified delays in the registration of union organizations and new union officers, as well as the refusal to register union organizations for reasons not provided for in the Constitution or in the law. They also point out that the Government is seeking to table in the National Assembly a Bill on a Basic Employment Act, still in draft form, which contravenes the Committee's comments. ***The Committee requests the Government to send its comments on all the above-mentioned observations. It also requests the Government to send a copy of the Bill and to keep it informed of any further developments.***

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

The Committee notes that in the discussion that took place in the Conference Committee on the Application of Standards (hereinafter referred to as the Conference Committee) in June 2022 on the

implementation of the Convention by Ecuador, the Conference Committee noted with regret that no action had been taken to follow up on the technical assistance provided by the Office in December 2019 and also noted the long-standing issues regarding compliance with the Convention. The Conference Committee urged the Government to take action to foster an environment conducive to the full enjoyment of the right of workers and employers to freedom of association. The Conference Committee noted that both the Government and the social partners raised the importance of labour law reform and expressed the hope that the Government would seize this opportunity to bring its legislation and practice fully into line with the Convention in consultation with the social partners. The Conference Committee urged the Government to take effective and time-bound measures, in consultation with the social partners, to:

- ensure full respect for the right of workers, including public servants, to establish organizations of their own choosing, for the collective defence of their interests, including protection against administrative dissolution or suspension;
- amend legislation to ensure that the consequences of any delays in convening trade union elections are set out in the by-laws of the organizations themselves;
- resolve the registration of the National Federation of Education Workers (UNE);
- give effect to the road map presented in December 2019 by the ILO technical assistance mission; and
- initiate a process of consultation with the social partners to reform the current legislative framework in order to enhance coherence and bring all the relevant legislation into compliance with the Convention.

The Conference Committee invited the Government to avail itself of technical assistance from the Office and requested that the Government accept a direct contacts mission and submit a report to the Committee of Experts by 1 September 2022 communicating information on the application of the Convention in law and practice, in consultation with the social partners.

Application of the Convention in the private sector

Article 2 of the Convention. Excessive number of workers (30) required for the establishment of workers' associations, enterprise committees or assemblies for the organization of enterprise committees. Possibility of creating trade union organizations by branch of activity. For several years the Committee has been drawing the Government's attention to the need to revise sections 443, 449, 452 and 459 of the Labour Code in such a way as to reduce the minimum number of members required to establish workers' associations and enterprise committees and enable the establishment of primary-level unions comprising workers from several enterprises. The Committee notes that in its report the Government does not refer to the revision of the articles relating to the number of workers required to form workers' associations and enterprise committees. The Committee notes that CEOSL, FETRAPEC, the UNE and PSI stress that the number of no less than 30 workers for the establishment of trade union organizations is disproportionate and unreasonable in view of the Ecuadorian business structure, stating that persons working in 88.1 per cent of the business sector are not able to form trade union organizations. With regard to the creation of organizations that bring together workers from several enterprises, in its previous comment, the Committee had welcomed the 2021 ruling by the Provincial Court of Justice of Pinchincha ordering the Ministry of Labour to register ASTAC as a branch union, despite the fact that it was made up of workers from several enterprises and also ordering the Ministry to regulate the registration of unions by branch of activity. The Committee notes that the Government, ASTAC and the ITUC report that although ASTAC was granted legal personality on 11 January 2022, in compliance with the ruling, the Ministry and the State Attorney General's Office filed an extraordinary protection order against the ruling for lack of adequate grounds and legal certainty and non-compliance with due process. The Committee notes that the extraordinary protection order, which has the support of

business associations, is pending a decision by the Constitutional Court. It also notes that ASTAC states that the Government has not fully complied with the ruling since, although it has applied it with respect to ASTAC, it has refused to regulate the establishment of branch unions, stating that the ruling is not applicable erga omnes or inter communis (applicable to other parties). The Commission notes with **interest** the registration of ASTAC as a branch union. **Recalling that, under the terms of Articles 2 and 3 of the Convention, workers must be able, if they so wish, to establish primary-level organizations at a level higher than the enterprise, the Committee firmly hopes that the above-mentioned ruling will contribute to enabling the creation of trade union organizations by branch of activity, and also hopes that the Committee's assessment of this important development in the application of the Convention will be brought to the attention of the Constitutional Court of Justice. The Committee urges the Government to take the necessary steps, in consultation with the social partners, to revise the sections of the laws referred to above in the manner indicated and to keep it informed of developments in this respect. The Committee also requests the Government to report on the proceedings before the Constitutional Court regarding the extraordinary protection order.**

Article 3. Compulsory time limits for convening trade union elections. The Committee has been asking the Government to amend section 10(c) of the Regulations on Labour Organizations No. 0130 of 2013, which provides that trade union executive committees shall lose their powers and competencies if they do not convene elections within 90 days of the expiry of their term of office, as set out in their respective union constitutions, to ensure that the consequences of any delay in holding elections shall be determined by the union constitutions themselves, subject to the observance of democratic rules. The Committee notes that the Government reports that a draft reform of the Regulations on Labour Organizations is currently being reviewed particularly with regard to section 10(c). **Recalling that under Article 3 of the Convention, trade union elections are an internal matter for organizations, and observing that the consequences under the Regulations if the deadlines are not respected—the loss of powers and competencies for trade union committees—risk paralyzing the capacity for trade union action, the Committee firmly hopes that the draft reform will take into consideration its comments, and that the section in question will be modified along the lines indicated. The Committee requests the Government to report on any developments in this regard.**

Requirement of Ecuadorian nationality to be eligible for trade union office. The Committee recalls that, while in 2015 it had noted that section 49 of the Labour Justice Act had amended section 459(4) of the Labour Code and removed the requirement of Ecuadorian nationality to be eligible to be an officer of an enterprise committee, in its most recent comment it observed that section 49 was declared unconstitutional by a ruling of 2018 because it violated the principle of trade union independence by providing that the legislation determined how the executive bodies of the enterprise committees were constituted and who had the right to vote in their elections. The Committee notes with **regret** that as a result of the declaration of unconstitutionality, section 459(4) has reverted to its original wording and requires Ecuadorian nationality to be eligible to be an officer of an enterprise committee. The Committee notes the Government's indication that Ecuadorian nationality is required to be an officer of an enterprise committee, but not to be a leader or member of other forms of association. The Committee notes that enterprise committees are one of the forms that trade unions can take within an enterprise. The Committee emphasizes that under *Article 3* of the Convention all workers' and employers' organizations shall have the right to elect their representatives in full freedom and that national legislation should allow foreign workers to take up trade union office, if permitted under the organization's constitution and rules, at least after a reasonable period of residence in the host country. **The Committee therefore urges the Government to amend section 459(4) of the Labour Code and to keep it informed of any developments in this regard.**

Elections as officers of enterprise committees of workers who are not trade union members. The Committee had previously indicated to the Government the need to amend section 459(3) of the Labour Code, which provided that the role of officer of an enterprise committee may be filled by any worker,

whether or not a union member, who stands for office. The Committee notes the Government's indication that the above-mentioned Constitutional Court ruling of 2018 also had an impact on the wording of section 459(3), and that it reverted to its original wording which does not provide for the possibility for non-unionized workers to participate in enterprise committee elections. ***Taking due note of this information, the Committee requests the Government to hold consultations with the social partners in relation to the need to review section 459(3) of the Labour Code to bring it into full compliance with the principle of trade union autonomy.***

Application of the Convention in the public sector

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and to join organizations of their own choosing. The Committee previously noted that although section 11 of the Basic Act reforming the legislation governing the public sector (Basic Reform Act), adopted in 2017, establishes the right to organize for public servants, certain categories of public employees were excluded from that right, especially those under contract for occasional services, those subject to free appointment and removal from office, and those on statutory, fixed-term contracts. Recalling that under Articles 2 and 9 of the Convention, with the sole possible exception of members of the police and of the armed forces, all workers, including permanent or temporary public servants and those under fixed-term or occasional services contracts, have the right to establish and to join organizations of their own choosing, the Committee asked the Government to take the measures required to bring the legislation into line with the Convention. The Committee notes that, with regard to public servants under fixed-term or occasional services contracts, the Government merely reiterates that the public institutions of the State are working to ensure that public servants have their respective definitive appointments, provided that their activities are not temporary. The Committee notes with ***regret*** that no progress has been made in taking its comments into account in relation to the need to bring the legislation into line with the Convention in such a way that all workers, with the sole possible exception of the members of the police and of the armed forces, have the right to establish and to join organizations of their own choosing. ***The Committee urges the Government to take the necessary measures to bring the legislation into line with the Convention.***

Right of workers to establish organizations of their own choosing without previous authorization. Organizations of public servants other than the committees of public servants. The Committee observed that, according to the provisions of the Basic Reform Act, the committees of public servants, which must comprise 50 per cent plus one of the staff of a public institution, are responsible for defending the rights of public servants and are the only bodies that can call a strike. Underlining the fact that all organizations of public servants must be able to enjoy the various guarantees established in the Convention, the Committee requested the Government to provide information on organizations of public servants other than the committees of public servants and to indicate in detail what means they have for defending the occupational interest of their members. The Committee notes the Government's indication that public servants, when forming their organizations, have the right to draft their statutes in which they may establish any means to defend their interests, emphasizing that public servants' organizations are legal entities under private law, and therefore may establish any regulation that is not prohibited by law. The Committee notes that it is precisely the Basic Reform Act that indicates that the committees of public servants are responsible for defending the rights of public servants and are the only bodies that can call a strike. It is on this basis that the Committee requested the Government to provide information on organizations of public servants other than the committees of public servants and to indicate what means they have for defending the occupational interest of their members. ***The Committee regrets that it has not received this information and reiterates its request to the Government to provide information in this respect. Recalling that under Article 2 of the Convention, trade union pluralism must be possible in all cases, and that no organization of public servants should be deprived of the essential means for defending the occupational interests of its members, organizing its administration***

and activities, and formulating its programmes, the Committee once against requests the Government to take the necessary steps to ensure that the legislation does not restrict recognition of the right to organize to the committees of public servants as the sole form of organization.

Article 3. Right of workers' organizations and associations of public servants to organize their activities and to formulate their programmes. The Committee previously drew the Government's attention to the need to amend section 346 of the Basic Comprehensive Penal Code, which provides for a term of imprisonment of one to three years for stopping or obstructing the normal provision of a public service, so as to prevent the imposition of criminal penalties on workers engaged in a peaceful strike. The Committee notes that according to the Government, no progress has been made in this regard. The Committee **regrets** that no action has been taken in this respect and notes that, according to CEOSL, FETRAPEC, the UNE and PSI, the provision in question is being used to criminalize social protest. **The Committee strongly urges the Government to take the necessary measures to ensure that section 346 of the Basic Comprehensive Penal Code is amended in the manner indicated and, until such measures are taken, to ensure that this provision is not used to criminalize social protest.**

Article 4. Dissolution of associations of public servants by the administrative authorities. The Committee previously asked the Government to take the necessary measures to ensure that Decree No. 193 of 2017, which retains engagement in party-political activities as grounds for dissolution and provides for administrative dissolution, does not apply to associations of public servants whose purpose is to defend the economic and social interests of their members. The Committee notes the Government's indication that labour and social organizations are governed by civil law and that it falls to their members to exercise the rights and obligations recognized by their statutes. The Committee notes that, according to CEOSL, FETRAPEC, the UNE and PSI, the provision of Decree No. 193 that maintained as grounds for dissolution the development of party-political activities was declared unconstitutional by a judgment issued on 27 January 2022 in which the Constitutional Court held that it was not admissible that an open and indeterminate provision could limit the right of social organizations to participate in matters of public interest and to oversee the actions of the public authorities. The Committee notes that these organizations further state that: (i) Decree No. 193 regulates only social organizations and not trade union organizations; (ii) the Labour Code and the Basic Reform Act establish that public servants' organizations can only be dissolved by judicial decision; and (iii) without prejudice to the foregoing, the Government applies the grounds for forced dissolution of social organizations to trade union organizations. **Recalling that Article 4 of the Convention prohibits the suspension or administrative dissolution of the associations of public servants, the Committee urges the Government to ensure that the rules of Decree No. 193 are not applied to associations of public servants that have the purpose of defending the economic and social interests of their members.**

Administrative dissolution of the National Federation of Education Workers (UNE). In its last comment, having noted the registration of social organizations related to the UNE, (which was dissolved by an administrative act issued by the Under-Secretariat of Education in 2016), the Committee asked the Government to: (i) indicate whether the registration of the UNE-E with the Under-Secretariat of Education of Quito meant that the UNE had been able to resume its activities of defending the occupational interests of its members; (ii) take all necessary measures to ensure the registration of the UNE as a trade union organization with the Ministry of Labour, if the UNE so wished; and (iii) ensure the full return of the property seized as well as the removal of any other consequences resulting from the administrative dissolution of the UNE. The Committee notes that, after summarizing the events that have taken place in recent years, the Government indicates that the UNE filed several legal actions against the dissolution resolution and that, to date, although all the actions filed by the UNE have been rejected, the Constitutional Court's ruling on an extraordinary protection order is still pending, and that, with the Constitutional Court's decision, the national judicial instances will have been exhausted. The Committee notes that, according to the CEOSL, FETRAPEC, the UNE and PSI, the Government has not complied with the Committee's request in its previous comments. **The Committee requests the**

Government to provide information on the ruling handed down by the Constitutional Court on the pending extraordinary protection order and to provide the information requested by the Committee in its previous comment.

Technical assistance. Both the Committee and the Conference Committee have noted with regret that the Government has not given follow-up to the technical assistance provided by the Office in December 2019 regarding measures to address the comments of the supervisory bodies. The Committee notes that the Government shows interest in receiving technical assistance to restart tripartite social dialogue and establish a new road map in that regard. **The Committee expresses the firm hope that, with the technical assistance in which the Government has shown interest, social dialogue will be restarted and progress will be made in taking concrete, effective and time-bound measures, in consultation with the social partners, to bring the legislation into conformity with the Convention. Like the Conference Committee, this Committee hopes that the Government will accept a direct contacts mission and also hopes that the implementation of the measures referred to in this comment will contribute to guaranteeing greater respect for the rights enshrined in the Convention.**

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1959)

Previous comment

The Committee notes the observations of the Trade Union Association of Agricultural, Banana and Rural Workers (ASTAC), received on 30 August 2022, which relate to matters examined by the Committee in the present comment. The Committee also notes the joint observations of the Ecuadorian Confederation of Free Trade Unions (CEOSL), the Federation of Petroleum Workers of Ecuador (FETRAPEC), the National Federation of Education Workers (UNE) and Public Services International (PSI) in Ecuador, received on 1 September 2022, which also relate to matters examined by the Committee in the present comment. **The Committee requests the Government to provide its comments in relation to all the observations referred to above.**

Direct contacts mission requested by the Committee on the Application of Standards in the context of the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). The Committee notes that the application of Convention No. 87 by Ecuador was examined by the Committee on the Application of Standards (CAS) at the 110th Session of the International Labour Conference in June 2022. The Committee observes that the discussions and conclusions of the CAS address matters that have a direct impact on the capacity of workers to negotiate collectively their terms and conditions of work, and therefore on the application of the present Convention. The Committee observes in this context that the CAS requested the Government in particular to: ensure full respect for the right of workers, including public servants, to establish organizations of their own choosing, for the collective defence of their interests; give effect to the road map presented in December 2019 by the ILO technical assistance mission; avail itself of technical assistance from the Office; and accept a direct contacts mission.

Technical assistance. The Committee also recalls that in its previous comment it regretted to note that the Government had not taken action to follow up the technical assistance provided by the Office in December 2019 concerning measures to respond to the comments of the ILO supervisory bodies. The Committee notes that the Government reiterates its interest in receiving technical assistance to reactivate tripartite social dialogue and develop a new road map for this purpose. **The Committee expresses the firm hope that, as a result of the dynamic generated by the direct contacts mission requested by the CAS in relation to Convention No. 87 and with the support of the further technical assistance that the Government is interested in receiving, the Government will take specific, effective**

and time-bound measures, in consultation with the social partners, to bring the legislation into conformity with the Convention in relation to the matters indicated below.

Application of the Convention in the private sector

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. For more than a decade, the Committee has been referring to the need to include provisions in the legislation that guarantee protection against acts of anti-union discrimination at the time of access to employment. The Committee notes in this regard that the Government has confined itself to reiterating that labour regulations give an adequate level of protection and that it is not necessary to adopt further provisions in this respect. The Committee once again reminds the Government that *Article 1* of the Convention prohibits anti-union discrimination at the time of the recruitment of individual workers, so that access to employment is not made subject to the condition that workers shall not join a union or shall relinquish union membership, as well as practices such as 'blacklisting' union members to prevent them from being hired. The Committee notes that, according to the indications of the CEOSL, FETRAPEC, UNE and PSI, dismissed union leaders cannot find work and that this difficulty is experienced by any workers, whether or not they are union members, who have taken legal action against their employer, as labour claims are published on the website of the judiciary so that any employer can check whether applicants have made legal claims against previous employers before recruiting them. ***In light of the above, the Committee once again emphasizes the need for provisions expressly prohibiting acts of anti-union discrimination at the time of access to employment to be included in the legislation and requests the Government to provide information on any measures adopted in this respect.***

Article 4. Promotion of collective bargaining. The Committee recalls that, in accordance with section 221 of the Labour Code, collective labour contracts must be concluded with the enterprise committee or, if one does not exist, with the organization with the largest number of worker members, on condition that it represents over 50 per cent of the workers in the enterprise. The Committee previously urged the Government to adopt the necessary measures to amend section 221 so that, if there is no organization that represents over 50 per cent of the workers, minority trade unions can, either separately or jointly, negotiate at least on behalf of their own members. The Committee observes that the Government has confined itself to reiterating that this requirement for the negotiation of a collective contract is closely related to such principles as democracy, participation and transparency, as the benefits obtained in the collective contract apply to all workers in the enterprise or institution. The Committee once again emphasizes that, while it is acceptable for the union which represents the majority or a high percentage of workers in a bargaining unit to enjoy preferential or exclusive bargaining rights, in cases where no union meets these conditions, or does not enjoy such exclusive rights, minority trade unions should at least be able to conclude a collective or direct agreement on behalf of their own members (2012 General Survey on the fundamental Conventions, paragraph 226). The Committee recalls that, even though the requirement of representativeness for signing collective agreements is fully compatible with the Convention, the level of representativeness set should not be such as to hinder the promotion and implementation of free and voluntary collective bargaining, as referred to in *Article 4* of the Convention. In this regard, the Committee recalls that in previous comments it noted the low rate of coverage of collective bargaining in the private sector. The Committee observes that, according to the information provided by the Government, between May 2021 and June 2022, a total of 37 collective contracts were concluded in the private sector. The Committee observes that the CEOSL, FETRAPEC, UNE and PSI indicate that the Government has not specified whether the figures refer to first collective contracts or revised versions of contracts that have already been concluded. ***Emphasizing the link between the low coverage of collective agreements in the country and the restrictive requirements set out in law for participation in collective bargaining, the Committee once again urges the Government, after consulting the social partners, to take the necessary measures to amend section 221 of the Labour Code as indicated above. It requests the Government to continue***

providing information on the number of collective agreements concluded and in force in the country, with an indication of the sectors covered (including the agricultural and banana sector), the number of workers covered and whether they are new or revised collective agreements.

Collective bargaining in sectors composed mainly of small enterprises. The Committee recalls that, in its comments on the application of Convention No. 87, it has been calling for many years for the modification of the following aspects of the legislation, which significantly restricts the capacity of workers to organize in unions: (i) the requirement of a minimum of 30 workers to establish unions and enterprise committees; and (ii) the prohibition on establishing first-level unions composed of workers from different enterprises. The Committee notes with **concern** that these restrictions on the right to organize, combined with the absence of a legal framework for collective bargaining at the sectoral level, as denounced by the ASTAC, appear to exclude any possibility for workers in small enterprises to exercise their right to collective bargaining. **In light of the above, the Committee requests the Government to provide information on the measures adopted to promote collective bargaining in sectors composed mainly of small enterprises.**

Application of the Convention in the public sector

Articles 1, 2 and 6 of the Convention. Protection of workers in the public sector who are not engaged in the administration of the State against acts of anti-union discrimination and interference. The Committee previously observed that the Basic Act reforming the legislation governing the public sector (the Basic Reform Act) contained provisions which explicitly protected executive members of public servants' committees, and it requested the Government to take the necessary measures to ensure that the legislation applicable to the public sector includes provisions that explicitly protect the leaders of all organizations of public employees against acts of anti-union discrimination and interference, as well as provisions establishing dissuasive penalties in the event of such acts. The Committee observes the Government's reiterated indication that protection against acts of discrimination and the right to establish unions is envisaged in both the Political Constitution and section 187 of the Labour Code, and the Basic Public Service Act (LOSEP), which prohibits any act of discrimination against public servants. The Government considers that the legislative labour principles in force offer an adequate level of protection for public servants. In the same way as the Committee on Freedom of Association, when it examined Case No. 3347, the Committee once again emphasizes the importance of the legislation providing the same type of protection against possible acts of anti-union discrimination and interference for all leaders of all public servants' organizations. **The Committee once again urges the Government to take the necessary measures to ensure that the legislation applicable to the public sector contains provisions that explicitly protect the leaders of all organizations of public servants against acts of anti-union discrimination and interference, and also provisions that establish dissuasive penalties against committing such acts. The Committee requests the Government to provide information on any measures adopted or envisaged in this regard.** The Committee also previously noted a ruling issued in 2020 declaring unconstitutional the compulsory redundancy purchase mechanism under which the public administration, in exchange for the payment of compensation, could unilaterally terminate the employment of public servants without the need to indicate the grounds for such termination. The Committee observed that, although the ruling removed the word "compulsory" and the prohibition for persons who have been dismissed to return to work in the public sector, PSI-Ecuador alleged that the Government had not complied with the ruling in respect of the removal of the prohibition to return to work in the public sector. The Committee requested the Government to provide its comments on the matter. The Committee notes that the Government confines itself to recalling the content of the ruling, but does not refer to compliance with the ruling. The Committee also observes that the CEOSL, FETRAPEC, UNE and PSI have sent a list of leaders of associations of public servants who have been dismissed using this mechanism. **The Committee once again requests the Government to provide its comments on compliance with the ruling.**

Articles 4 and 6. Collective bargaining for public sector workers who are not engaged in the administration of the State. The Committee observed previously that the Basic Reform Act and Ministerial Order No. MDT-2018-0010 did not recognize the right to collective bargaining of public servants and that only public sector workers governed by the Labour Code could engage in collective bargaining. The Committee also noted that the 2015 amendments to the Constitution excluding the entire public sector from the scope of collective bargaining had been annulled by the Constitutional Court in 2018 and that Ministerial Order No. 373 had been issued in 2019 to give effect to the ruling. The Committee requested the Government to ensure the full implementation of the Order and urged it to intensify its efforts to reopen an in-depth debate with the trade unions concerned with a view to establishing adequate collective bargaining machinery for all categories of employees in the public sector covered by the Convention. The Committee notes the Government's reiterated indication that, although there are no regulations on collective bargaining machinery for public servants, as this right is only conferred on workers in the sector who are covered by the Labour Code, it undertakes to promote tripartite dialogue and encourage constant discussion on matters of labour law. The Committee notes that, according to the Government, during the period between May 2021 and June 2022, a total of 78 collective agreements were concluded in the public sector. The Committee also notes the indication by the CEOSL, FETRAPEC, UNE and PSI that the Constitutional Court has not yet ruled on the appeals to find unconstitutional the Humanitarian Support Act which, as indicated by PSI-Ecuador, imposes restrictions on collective bargaining by public sector workers governed by the Labour Code. The organizations add that, although on 16 June 2022, the National Assembly approved a Bill repealing the Humanitarian Support Act almost in its entirety, the executive power vetoed the Bill on 20 July 2022. They further indicate that the Government is seeking to introduce in the National Assembly a Bill entitled the 'Basic Employment Act', which is reported to contain a provision for the elimination of collective bargaining in the public sector. The Committee notes these various elements and observes with **concern** that the legislation still does not recognize the right to collective bargaining of public servants, despite the fact that many of them (public sector teachers, employees in the public health system, employees in public enterprises, municipal services and decentralized bodies, etc.) are not engaged in the administration of the State and must therefore benefit from the guarantees provided by this Convention. **Observing that the Government has not provided information on specific initiatives for the re-establishment of the rights referred to above and recalling once again that in many countries there are mechanisms that permit the harmonious coexistence of the public sector's mission to serve the public interest and the responsible exercise of collective bargaining, the Committee urges the Government, in consultation with representative organizations of workers, to take the necessary measures to establish adequate collective bargaining machinery for all the categories of public sector employees covered by the Convention. The Committee requests the Government to report any developments in this respect.**

Equatorial Guinea

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2001)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

The Committee notes with **deep concern** that the Government's report, due since 2007, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Convention on the basis of whatever information is at its disposal. The Committee recalls that it has been raising issues concerning the observance of the Convention in an observation. It has formulated longstanding recommendations to bring the Labour legislation into

conformity with the Convention concerning limitations that unduly restrict the right of workers to organize and to formulate their programmes, including the right to establish enterprise trade unions, the right to strike and the determination of essential services, as well as the refusal to recognize in practice a number of workers' organizations by rejecting their registration requests. ***Not having at its disposal any indication of progress on these pending matters, despite the technical assistance that the Office provided to the country on several occasions, the Committee refers to its previous observation adopted in 2020 and urges the Government to provide a full reply thereto.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2001)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

The Committee notes with ***deep concern*** that the Government's report, due since 2007, has not been received. In the light of its urgent appeal to the Government in 2020, the Committee is proceeding with the examination of the application of the Convention on the basis of the information at its disposal. The Committee recalls that it previously raised questions about compliance with the Convention in an observation. Having noted the allegations of the International Trade Union Confederation (ITUC) concerning the refusal of the authorities to recognize a number of trade unions, the Committee recalled that the existence of trade unions established freely by workers is a prerequisite for the application of the Convention. The Committee also made recommendations to bring the labour legislation into conformity with the Convention, in particular with regard to the right to organize and to collective bargaining of workers in the public administration, and requested the Government to provide detailed information on the application of the Convention to public servants not engaged in the administration of the State. ***In the absence of any indication of progress on these pending issues, despite the technical assistance the Office has provided to the country on several occasions, the Committee refers to its previous observation adopted in 2020 and urges the Government to reply in full to these comments.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Eritrea

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2000)

Previous comment

Articles 1, 2, 4 and 6 of the Convention. Legislative issues. In its previous comments the Committee noted the following shortcomings in the currently applicable legislation:

- (i) With regard to the *protection against anti-union discrimination and acts of interference*, the law does not provide for remedies in case of anti-union discrimination at recruitment and during employment, neither does it provide for reinstatement of union members other than leaders dismissed for union membership or activities. Legal compensation and sanctions against anti-union discrimination and acts of interference are inadequate.
- (ii) With regard to the scope of application of the Convention, the law does not explicitly provide *domestic workers* with the rights guaranteed in the Convention. Furthermore, all *civil servants, including those not engaged in the administration of the State*, are excluded from the scope of

the Labour Proclamation and no other special law provides them with the rights guaranteed in the Convention.

With regard to protection against anti-union discrimination and acts of interference, the Committee notes that the Government reiterates its previous indication that section 691 of the Transitional Penal Code sanctions anti-union discrimination. The Committee had noted in this regard that section 691 contains a general definition of petty offences and does not particularly concern anti-union discrimination or acts of interference, which are not qualified as petty offences in any specific legal provision. With regard to domestic workers, the Committee notes that the Government reiterates that they are not out of the scope of the Labour Proclamation; that the guarantees enshrined in the Convention can be afforded to them through directives and regulations; and that the Ministry of Labour and Social Welfare has engaged in drafting the relevant regulation. With regard to civil servants not engaged in the administration of the State, the Committee notes the Government's indication that professional associations have been established and registered under articles 404 and 406 of the Transitional Civil Code, whose members are mostly civil servants. The Government cites as examples Teachers' Association, Medical Doctors' Association, Nurses' Association, Electrical Contractors' Association and Engineers' Association. The Committee notes in this regard that in accordance with the Transitional Civil Code, civil law associations do not have the same rights as labour law associations in terms of representation of the occupational interests of their members in relation to the employer and the authorities and are not entitled to participate in the process of collective bargaining. Furthermore, civil law associations are not covered by labour law guarantees such as prohibition of anti-union discrimination and non-interference. The Committee notes that despite its longstanding requests for legislative reform, the Government indicates once again that the ministerial regulation concerning domestic workers, as well as the civil service code are still in the drafting process, and it does not refer to any measure envisaged to strengthen protection against anti-union discrimination and acts of interference. ***In view of the above considerations, the Committee notes with concern that no progress is made with regard to these longstanding legislative issues. Therefore, it once again urges the Government to take all the necessary measures to enact new legislation or revise the existing law in order to (i) provide adequate protection against anti-union discrimination and acts of interference; and (ii) ensure that domestic workers and civil servants who are not engaged in the administration of the State enjoy the right to organize and collectively bargain. The Committee requests the Government to provide information on the developments in this regard.***

Articles 4, 5 and 6. Promotion of collective bargaining. Compulsory national service. In its previous comments, the Committee had noted that Eritrean nationals performing work within the national compulsory service are not covered by the Labour Proclamation provisions related to collective bargaining and that large numbers of Eritrean nationals were denied the right to collective bargaining for indefinite periods of their active lives while they were performing civilian activities as part of their indefinite compulsory national service. ***The Committee once again urges the Government to take the necessary measures to ensure that Eritrean nationals are not denied the right to bargain collectively beyond the scope of the exceptions set out in Articles 5 and 6 of the Convention and to provide information on the developments in this respect.***

Promotion of collective bargaining in practice. The Committee notes the information provided by the Government on the number of registered collective agreements, according to which there are 100 collective agreements registered that cover 17,677 workers, including 10,552 men and 7,123 women. It notes that according to this information only for a small portion of the workforce in Eritrea the terms and conditions of employment are regulated by collective agreements. ***The Committee requests the Government to: (i) take action to promote free and voluntary collective bargaining and to inform on the initiatives taken in this respect; and (ii) provide updated information on the number of collective agreements concluded and in force disaggregated by the sectors concerned, the names of employers' and workers' organizations party to those agreements and the number of workers covered.***

Gabon

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

In its previous comments, further to the observations of the International Trade Union Confederation (ITUC) relating to restrictions on the right to strike in the public sector on the repeatedly invoked grounds of ensuring public safety, the Committee asked the Government to provide information on the number of strikes called in the public sector as a whole, the individual sectors concerned and the number of strikes prohibited on the grounds of a possible disruption of public order. The Committee notes the Government's indication that trade unions within a number of government departments, including customs, taxation, higher education, national education, health and social affairs, have availed themselves of their right to strike. Moreover, the Government indicates that the National Congress of Education Sector Unions (CONASYSED) held its latest strike at the Martine Oulabou Public School without being removed from the premises and without the right to strike being prohibited. **While taking note of the information provided by the Government on examples of strikes called in the public sector, the Committee requests once again that the Government provide detailed information on the number of strikes that have been called in the public sector, and the number of strikes prohibited on the grounds of a possible disruption of public order.**

Moreover, further to the observations previously received from Education International (EI), denouncing the adoption of various regulations which are making the exercise of union activities in the education sector increasingly difficult, the Committee asked the Government to indicate the measures taken in the education sector to ensure that trade unions have access to educational establishments so that they can perform their representative functions and defend their members' interests. The Committee notes with **regret** that there has been no reply from the Government on this matter. **The Committee reiterates its request and expects that the Government will take all necessary steps to provide the requested information.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Gambia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2000)

Previous comments: [observation](#) and [direct request](#)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2022, which refer to matters under examination by the Committee.

Trade union rights and civil liberties. In its previous comments, the Committee had noted the 2017 ITUC observations alleging the arbitrary arrests of several leaders of the Gambian National Transport Control Association (GNTCA); the death, while in detention, of Mr Sheriff Diba, one of the arrested leaders; and the imposition of a ban on the activities of the GNTCA. The Committee had requested the Government to ensure that the GNTCA was informed about the necessary procedures to obtain a review of its case, which had been discontinued before the High Court of The Gambia, and expressed its firm hope that the death of Mr Diba and the alleged arbitrary arrests would be duly investigated without delay by the Truth, Reconciliation and Reparation Commission (TRRC), an independent institution mandated to investigate human rights violations committed by the former regime. The Committee notes the Government's indication in its report that in 2020, a task force led by the Office of the Inspector General of the Police, which included representatives of the Ministry of Justice, the National Intelligence

Agency and the Gambia Armed Forces, as well as former members of the GNTCA, convened several meetings on the above-mentioned issues. The Committee further notes that the GNTCA was advised to constitute a trade union instead of an association, which led to the formation of the General Transport Union, and was also advised to approach the Victim Centres of the National Human Rights Commission. In addition, the Committee also notes the Government's indication that due to the time constraints and the volume of alleged human rights violations that the TRRC was tasked to examine, the TRRC did not investigate the death of Mr Diba, and that all pending human rights violations will be investigated and prosecuted by a Special Prosecutor's Office that will be established within the Ministry of Justice. ***The Committee expects that the Government will take all necessary measures to ensure that the death of Mr Diba and the alleged arbitrary arrests of the leaders of the GNTCA are promptly investigated by the Special Prosecutor's Office. The Committee requests the Government to provide information on all developments in this regard.***

Article 2 of the Convention. Right of workers without distinction whatsoever, to establish and join organizations of their own choosing without previous authorization. The Committee had previously noted that sections 3(2)(a), (c) and (d) of the Labour Act of 2007 exclude civil servants, prison officers and domestic workers, respectively, from its scope, and recalled the need to ensure that these three groups enjoy the right to establish and join organizations of their own choosing. The Committee notes the Government's indication that these categories of workers are not excluded from the scope of the Trade Union Bill and will therefore be allowed to form and join trade unions after its coming into force. The Committee observes that the right to join and participate in the forming of trade unions is provided to every employee under section 4(1) of the Trade Union Bill. Further observing that section 2 of the Trade Union Bill defines "employee" as "a person employed for wages or a salary", which does not encompass self-employed workers and workers without employment contracts, the Committee recalls that *Article 2* of the Convention applies not only to employees but more broadly to all workers without any distinction whatsoever. The Committee also notes the ITUC indication that no progress has been made with respect to the Trade Union Bill since the Gambian Trade Union Bureau submitted its comments and recommendations on the Bill in 2017. ***The Committee requests the Government to take the necessary steps, in consultation with the social partners, to review the Trade Union Bill so as to ensure that once adopted, all workers, including civil servants, prison officers, domestic workers, as well as self-employed workers and workers without employment contracts, enjoy the right to establish and join organizations of their own choosing, in accordance with the Convention. The Committee requests the Government to provide information on any progress made in this respect.***

Minimum membership requirement. In its previous comments, the Committee had requested the Government to lower the minimum membership requirement for the registration of a trade union currently set by section 96(4)(a) the Labour Act at 50 workers. The Committee welcomes the Government's indication that the issue of registration of trade unions will now be dealt with under the Trade Union Bill and that the minimum membership requirement will be set at seven members under section 8(2) of its draft Trade Union Regulations. The Government indicates that the Labour Bill no longer includes provisions regulating this issue. ***The Committee expects that the Labour Bill, the Trade Union Bill and the draft Trade Union Regulations will be adopted without further delay so as to ensure that the minimum membership requirement for the registration of trade unions is reduced to a level which does not hinder the establishment of organizations.***

The Committee hopes that the Labour Bill, the Trade Union Bill and the draft Trade Union Regulations will be reviewed and finalized as soon as possible in consultation with the social partners and with the technical assistance of the Office, requested by the Government, to ensure that full effect is given to the provisions of the Convention. The Committee requests the Government to provide information on all developments in this regard and to transmit copies of the laws and regulations once adopted.

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2000)

Previous comment

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2022 referring to matters under examination by the Committee.

The Committee also notes that the Government indicates that the Labour Bill and the Trade Union Bill are currently being reviewed and provides copies of the two bills.

Scope of the Convention. In its previous comments, the Committee requested the Government to provide information on the adoption of the Trade Union Bill and expressed the firm expectation that the rights afforded by the Convention would be ensured for prison officers, domestic workers and civil servants not engaged in the administration of the State, whom section 3(2) of the Labour Act excludes from its scope. The Committee takes due note of the Government's indication that these categories of workers are not excluded from the scope of the Trade Union Bill, as they are not enumerated among the persons excluded by section 3 of the Bill.

The Committee observes however that section 2 of the Bill defines "trade union" as "an organized group of employees", and "employee" as "a person employed for wages or a salary", a definition that may not encompass self-employed workers and workers without employment contracts. In this regard, the Committee recalls that the Convention does not apply only to employees but more broadly to all workers, and that only the armed forces, the police and public servants engaged in the administration of the State may be excluded from the guarantees of the Convention. The Committee also notes that, according to the observations submitted by the ITUC, there has been no progress regarding the adoption of the Trade Union Bill since the Gambian Trade Union Bureau submitted its comments and recommendations on the Bill in 2017. ***The Committee requests the Government to take the necessary measures, in full consultation with the social partners, to ensure that the Trade Union Bill is revised and adopted shortly, with a view to guaranteeing that all workers, including prison officers, domestic workers, civil servants not engaged in the administration of the State, as well as self-employed workers and workers without employment contracts, enjoy the rights and guarantees set out in the Convention. The Committee requests the Government to provide information on any progress achieved in this regard.***

Article 4. Recognition of organizations for the purposes of collective bargaining. In its previous comments, recalling that the organization of a ballot for determining representativeness should be carried out by the authorities or an independent party upon a request presented by a union, the Committee requested the Government to bring section 131 of the Labour Act, which provides that an employer may organize a secret ballot to establish a sole bargaining agent, into conformity with the Convention. The Committee notes with **regret** that the Government states that section 169 of the Labour Bill also allows the employer to organize such a secret ballot. ***The Committee requests the Government to amend the Labour Bill so as to ensure that the determination of the representative status of trade unions for purposes of collective bargaining is conducted in accordance with a procedure that offers every guarantee of impartiality, by an independent body that enjoys the confidence of the parties.***

Threshold of representativity. In its previous comment, the Committee recalled that if no union in a specific negotiating unit meets the required threshold to be recognized as a sole bargaining agent, minority trade unions should be able to negotiate, jointly or separately, at least on behalf of their own members, and requested the Government to bring its legislation into conformity with the Convention. The Committee notes that the Government states that in the Trade Union Bill, a trade union will be recognized for purposes of collective bargaining if it represents a simple majority of the unionizable employees (section 34). Observing that the Bill does not contain any provisions regulating cases in which no union reaches that threshold, the Committee recalls once again that systems where a representative

union that fails to secure the absolute majority may be denied the possibility of bargaining, may raise problems of compatibility with the Convention. Noting additionally that the Government only informs of two concluded collective agreements, the Committee considers that the apparently very small number of existing collective agreement in the country could appear to be related to the restrictive requirements to engage in collective bargaining which are contained in the current legislation. ***The Committee requests the Government to indicate the meaning of the term “simple majority” in section 34 of the Trade Union Bill, and to amend the legislation in order to ensure that if no union reaches the required threshold to be recognized as a bargaining agent, the existing unions are given the possibility to negotiate, jointly or separately, at least on behalf of their own members.***

Promotion of collective bargaining in practice. The Committee had previously noted the information provided by the Government on two company-level collective agreements concluded in the private sector in 2014 and 2017. The Committee notes that the Government limits itself to referring again to these two agreements and stating that it will take steps to sensitize trade unions to maximise the use and benefits of collective bargaining. ***The Committee reiterates its request that the Government provide information on the concrete measures taken to promote collective bargaining in all sectors covered by the Convention, as well as on the number of collective agreements concluded and in force, the sectors concerned and the number of workers covered by these agreements. The Committee further requests the Government to provide information on the actions taken to promote collective bargaining in the different sectors of the economy.***

Request for technical assistance. The Committee notes the Government's request for technical assistance from the Office to ensure that the Labour Bill and the Trade Union Bill include the ILO's recommendations and are aligned with the Convention. ***The Committee trusts that the technical assistance requested by the Government will be provided as soon as possible with a view to ensuring that, after a consultation with the social partners, the above-mentioned bills will give full effect to the provisions of the Convention. The Committee requests the Government to provide information on any evolution in this regard, as well as copies of the laws once adopted.***

The Committee is raising other matters in a request addressed directly to the Government.

Greece

Collective Bargaining Convention, 1981 (No. 154) (ratification: 1996)

Previous comment

The Committee notes the observations of the Greek General Confederation of Labour (GSEE), received on 1 September 2017, 1 November 2018 and 30 August 2019, as well as the Government replies thereto.

Articles 1(3) and 5 of the Convention. Promotion of collective bargaining in the public service. In its previous comment, the Committee requested the Government to provide information on the steps taken to promote collective bargaining for all groups of workers including the public service, extended to all matters related to working conditions and terms of employment and to indicate any reviews undertaken on the impact of the unilateral changes brought about to employment conditions over recent years. With respect to the private sector, the Committee refers to its previous comments under the Right to Organize and Collective Bargaining Convention, 1949 (No. 98). Concerning pay-setting arrangements in the public sector, the Government indicates: (i) as of 1 January 2016, the provisions of law 4354/2015 apply. Accordingly, collective labour agreements mainly concern the granting of non-wage benefits; (ii) any collective agreement providing for granting of non-wage benefits by the general government bodies that imply expenditure exceeding €5,000 per year is co-signed by the Minister of Finance; (iii) a study on the number of workers concerned, the cost incurred and the way of covering it

is attached to each collective agreement concerning the granting of non-wage benefits, as an annex and integral part thereof; and (iv) according to the opinion no. 174/2017 of the Legal Council of the State, wage regulations included in a CBA between the administration of a state private law legal entity and its workers' trade union shall not apply if they deviate from the provisions of the Law 4354/2015. The Government indicates that no legislative changes were made concerning collective bargaining in public sector during the period between 1 June 2014 and 31 May 2021. Concerning the practice of collective bargaining in the public sector the Government indicates: (i) during the reference period collective bargaining in the public sector only concerned the employees of entities of first and second level local self-government organizations. Two CBAs were concluded in 2017 and 2018 pursuant to which an additional annual leave and reduced working hours were granted to the staff of first level organizations and one CBA was concluded in 2018 (and amended in 2019) which for the first time regulated the employment terms and conditions of the staff of the regions. The issue of trade union leave was also codified in the framework of two CBAs concluded in 2017 and 2018; (ii) trade unions representing the private law personnel of first and second level local self-government organizations concluded three CBAs with the administration in 2018. The Committee recalls that while the special characteristics of the public service may justify a certain degree of flexibility in the modalities of collective bargaining, the broad material scope of the Convention that covers terms and conditions of employment, also applies to public employees and their organizations who should therefore be, in particular able to negotiate their wages collectively. ***The Committee firmly hopes that the Government will continue its efforts to promote collective bargaining for all groups of workers, including the public service, and to progressively extend the matters covered by collective bargaining. It requests the Government to provide information on all the measures taken in this respect.***

Guatemala

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1952)

Previous comment

The Committee notes the joint observations of the Guatemalan Autonomous Popular Trade Union Movement and the Global Unions of Guatemala, and the observations of the International Trade Union Confederation (ITUC), received on 31 August and 1 September 2022 respectively, relating to matters examined in the present comment. The Committee also notes the Government's replies to these observations.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

The Committee notes the discussion which took place in June 2022 in the Conference Committee on the Application of Standards (Conference Committee) concerning the application of the Convention by Guatemala. The Committee observes that the Conference Committee, after deploring and deeply regretting the persistent acts of general violence and the violence against trade union leaders and members, including murders and physical aggression, and the culture of impunity that prevails in the country, called on the Government to take steps to: (i) investigate without delay all acts and threats of violence against trade union leaders and members with a view to identifying and understanding the root causes of violence, taking into account their trade union activities as a motive, determining responsibilities and punishing the perpetrators; (ii) provide rapid and effective protection to all trade union leaders and members who are under threat by increasing the budget for such programmes and ensure that protected individuals do not personally have to bear any costs arising from those schemes; (iii) eliminate the various legislative obstacles to the free establishment of trade union organizations

and, in consultation with the social partners, resolve the handling of registration applications; (iv) ensure that judicial decisions of reinstatement in employment following anti-union dismissals are enforced without delay; (v) increase the visibility of the awareness-raising campaign on freedom of association in the media and ensure that there is no stigmatization of trade unions, their leaders and collective agreements; (vi) bring national legislation into conformity with the Convention, in consultation with the social partners; and (vii) redouble efforts to fully implement the road map adopted on 17 October 2013, in consultation with the social partners.

Lastly, the Committee invited the Government to avail itself of technical assistance from the Office to give full effect to these conclusions and asked it to submit a report on the application of the Convention to the Committee of Experts by 1 September 2022.

Follow-up by the Governing Body of the progress achieved in the implementation of the technical cooperation programme “Strengthening of the National Tripartite Committee on Labour Relations and Freedom of Association in Guatemala for the effective application of international labour standards”

The Committee recalls that, pursuant to its decision of November 2018 (decision GB.334/INS/9) to close the procedure concerning the complaint alleging non-observance of the Convention by Guatemala made under article 26 of the ILO Constitution, the Governing Body asked the Office in November 2020 to report annually on the ILO technical cooperation programme “Strengthening of the National Tripartite Committee on Labour Relations and Freedom of Association in Guatemala for the effective application of international labour standards” for its three-year duration (decision GB.340/INS/10).

During its October-November 2022 meeting, the Governing Body noted the joint mission of the ILO, the International Organisation of Employers (IOE) and the ITUC, undertaken in September 2022 to follow up on the technical cooperation provided by the ILO in relation to the implementation of the road map approved in 2013 by the Government, in order to discuss the matters raised in the complaint made under article 26 of the ILO Constitution. The Committee notes that the mission and the members of the National Tripartite Committee on Labour Relations and Freedom of Association (CNTRLLS) jointly identified a series of priority actions to give new impetus to the implementation of the road map.

Trade union rights and civil liberties. The Committee notes with **regret** that since 2005 it has been examining allegations of serious acts of violence against trade union leaders and members, including numerous murders, and the situation of impunity in this respect. The Committee notes the information provided by the Government on the status of investigations and judicial proceedings relating to the murder of 97 members of the trade union movement, indicating that: (i) 29 verdicts have so far been handed down, comprising 22 convictions (in relation to 19 murders, with three cases resulting in two convictions each), six acquittals, and one security and correctional measure; (ii) seven cases have been assigned dates for public hearings and trials; (iii) in one new case, the final report was presented to the judicial authority by the Public Prosecutor’s Office; (iv) in three cases, trial proceedings are being opened; (v) criminal proceedings were dropped in seven cases in which the accused persons had died; and (vi) the other cases are still at the investigation stage. The Committee also notes the Government’s indication that: (i) given that several new cases now have dates for public hearings and trials, five new judgments are expected by the end of the first half of 2023; (ii) six cases involving the deaths of trade union leaders and members which occurred in 2020 have seen significant progress in terms of investigations and proceedings; and (iii) the Public Prosecutor’s Office has launched investigations into two cases of death threats against trade union leaders.

The Committee further notes the information provided by the Government on the security measures adopted for members of the trade union movement in situations of risk, namely: (i) personal security measures are in place for two union leaders; and (ii) of the 46 requests for protection for trade union members received by the Ministry of the Interior from 1 January to 27 July 2022, one has given

rise to personal security measures, 39 have generated perimeter security measures, and six are in the analysis phase. The Government also refers to Ministerial Decision No. 288-2022 issued by the Interior Ministry, which reinstates the unit for the analysis of attacks against trade union leaders and members, a forum in which the Interior Ministry and the unions can exchange information on at-risk members of the trade union movement.

The Committee further notes the Government's reference to a substantial increase in the budgets allocated to: (i) the Office of the Special Prosecutor for Crimes against Judicial Officials and Trade Unionists, which increased from US\$543,960 to US\$1,288,252 in 2022; and (ii) the Personal Protection and Security Division at the Interior Ministry, which increased from US\$876,616 in 2020 to US\$1,239,120 in 2022. Lastly, the Government reports on the eight meetings held in 2022 by the CNTRLLS Subcommittee on the Implementation of the Road Map concerning the subject of anti-union violence.

The Committee also notes with **deep concern** the observations of the national and international trade union organizations denouncing: (i) the murder on 8 August 2022 of Hugo Eduardo Gamero Gonzalez, Disputes Secretary of the Santo Tomás de Castilla National Port Enterprise Workers' Union (SINEPORC); (ii) the perpetration of numerous other acts of anti-union violence such as death threats; (iii) the persistence of the situation of impunity; and (iv) the inadequate protection measures provided by the public authorities.

While noting the Government's replies regarding the investigations into these acts, the Committee once again recalls that trade union rights can only be exercised in a climate that is free from violence, pressure or threats of any kind against trade unionists, and that it is for governments to ensure that this principle is respected.

In light of the foregoing, while duly noting the continuing actions by the Government, the results reported and the difficulty involved in clearing up long-standing murder cases, the Committee once again expresses its **deep concern** at the allegations of a new case of murder and other acts of anti-union violence committed in 2022 and the persistence of a high degree of impunity. Indeed, the Committee notes with **regret** that the vast majority of the many murders of trade unionists recorded have still not resulted in convictions and that limited information on identification and punishment of the instigators of these crimes has been provided by the Government. **While duly noting the significant increase in the budget allocated to the Office of the Special Prosecutor for Crimes against Judicial Officials and Trade Unionists reported by the Government, the Committee once again urges the Government to continue taking and intensifying as a matter of urgency all necessary measures to: (i) investigate all acts of violence against trade union leaders and members, with the aim of determining responsibility and punishing both the perpetrators and instigators of these acts, taking the victims' trade union activities fully into consideration in the investigations; and (ii) provide prompt and effective protection for all trade union leaders and members in situations of risk so as to prevent any further acts of anti-union violence. The Committee requests the Government to continue providing all relevant information in this respect.**

Articles 2 and 3 of the Convention. The Committee recalls that for many years it has been requesting the Government to take measures to:

- amend section 215(c) of the Labour Code, which requires a membership of "50 per cent plus one" of the workers in the sector to establish a sectoral trade union;
- amend sections 220 and 223 of the Labour Code, which establish the requirement to be of Guatemalan origin and to work in the relevant enterprise or economic activity to be eligible for election as a trade union leader;
- amend section 241 of the Labour Code, under the terms of which strikes have to be called by a majority of the workers and not by a majority of those casting votes;

- amend section 4(d), (e) and (g) of Decree No. 71-86, as amended by Legislative Decree No. 35-96 of 27 March 1996, which provides for the possibility of imposing compulsory arbitration in non-essential services and establishes other obstacles to the right to strike;
- amend sections 390(2) and 430 of the Penal Code and Decree No. 71-86, which establish labour, civil and criminal penalties in the event of a strike by public officials or workers in certain enterprises; and
- ensure that the various categories of public sector workers (hired under item 029 and other items of the budget) enjoy the guarantees afforded by the Convention.

The Committee recalls that in its previous comments it noted: (i) the tripartite agreement concluded in March 2018 on the amendments sought in four of the six points indicated above (relating to the requirements for election as a trade union leader, compulsory arbitration in non-essential services and other obstacles to the right to strike, penalties applicable in the event of a strike established by various legislative provisions, and the application of the guarantees of the Convention to various categories of public sector workers); and the immediate submission of this agreement to the National Congress; (ii) the tripartite agreement concluded in August 2018 on the principles that should guide reforms on the requirements for the establishment and operation of sectoral unions and on the conditions for strike ballots.

In its comments further to the closure by the Governing Body of the complaint made under article 26 of the ILO Constitution, the Committee expressed deep concern at the lack of progress on legislative reforms, noting with regret, firstly, that the content of the tripartite agreement of March 2018 had still not been incorporated in the legislation and, secondly, that no progress had been made on work to revise the legislation relating to aspects covered by the agreement on principles of August 2018. With regard to this last point, the Committee had previously noted with concern the indications by the trade unions that the combination of (i) the fact that it is impossible to create sectoral unions as a result of the requirements of section 215(c), and (ii) the fact that it is impossible in small enterprises, which account for almost all companies in Guatemala, to assemble the 20 workers required by section 216 of the Labour Code for the establishment of a union, meant that the vast majority of workers in the country did not have access to the right to join a union.

The Committee notes the Government's reference to two tripartite meetings held in 2021 and one held in July 2022 to incorporate the agreements reached in March 2018 into a Bill without there having been the necessary input from the workers to move ahead with the tripartite discussion process. The Committee also notes that the national trade union federations claim that it is impossible to move forward on the legislative reforms requested by the Committee owing to the unwillingness of the Ministry of Labour and Social Welfare (Ministry of Labour) to impinge on the different political groups represented in the National Congress, and because of this the tripartite consensus achieved has lost its way in the legislative body.

The Committee also notes the following points that emerge from the discussion in the Governing Body in November 2022 that: (i) on 21 September 2022, in the presence of the ILO-IOE-ITUC joint mission, the Subcommittee on Legislation with the extended bureau of the CNTRLLS endorsed the texts approved in March 2018 and agreed that the executive authority would submit a Bill to Congress in the very near future; (ii) by a letter of 27 October 2022, the President of the Republic brought a Bill before the National Congress containing the texts which had received tripartite approval in March 2018 and September 2022; and (iii) the priority actions identified by the mission in conjunction with the CNTRLLS provide for: lobbying by the national tripartite constituents with a view to the adoption of the aforementioned Bill; bipartite and tripartite discussions facilitated by the Office to have a consensual text for proposed reforms on sectoral trade unions and the conditions for strike ballots ready for the Governing Body session of November 2023. ***Encouraged by the specific actions agreed upon during the ILO-IOE-ITUC joint mission, the Committee firmly hopes that the Government will very soon be in a***

position to report both the adoption of the Bill brought before the National Congress on 27 October 2022 and tangible progress in the revision of the legislation relating to sectoral trade unions and the conditions for strike ballots.

Application of the Convention in practice

Registration of trade unions. The Committee notes the Government's indication that: (i) in the whole of 2021, the Ministry of Labour registered 57 trade unions, out of 58 applications received; (ii) from 1 January to 15 August 2022, a total of 17 trade unions were registered, out of 18 applications received; and (iii) steps have been taken to contract a notifying officer to accelerate registration formalities, and assistance has been sought from the Ministry of Labour of Argentina to share good practices in this respect. The Committee also notes the observations of the trade union federations, which claim that: (i) arbitrary practices and the imposition of inappropriate formalities by the Ministry of Labour persist; (ii) the Ministry of Labour reportedly gives 48 hours to employers to bring legal action against any publication of the registration of a trade union in the Official Journal. The Committee notes the Government's indication regarding this latter point that, under the case law of the Constitutional Court, the Ministry of Labour has the obligation to examine claims presented to it, including those relating to the registration of unions. Lastly, the Committee notes that the priority actions identified by the ILO-IOE-ITUC joint mission include the implementation, with support from the Office, of software for the registration of trade unions. ***In light of the foregoing, the Committee requests the Government to continue providing statistical information on registration applications and actual trade union registrations. It further requests the Government to specify whether the legislation requires the labour administration to inform the employer when it receives a request for registration by a trade union and to indicate the number of challenges against registration brought by employers, the duration of their examination and the decisions taken for their resolution.***

Awareness-raising campaign on freedom of association and collective bargaining. The Committee notes the Government's reference to the meeting of the Subcommittee on the Implementation of the Road Map held on 2 August 2022 at which: (i) the Subcommittee gave its approval to the communication models submitted by the ILO; and (ii) the Ministry of Labour indicated that it had set aside funds to display posters in the municipalities most affected by disputes in the country. The Committee also notes the Government's indication that the national trade union federations, for their part, criticize the lack of any progress in this respect. Lastly, the Committee notes that, in the context of the priority actions identified by the ILO-IOE-ITUC joint mission and the CNTRLLS, the following possibilities were raised: (i) that the Government might launch a similar initiative on freedom of association to the one recently implemented by the Ministry of Labour with a campaign on the prevention of child labour; (ii) that the Coordinating Committee for Agricultural, Commercial, Industrial and Financial Associations, in connection with the human rights policy developed by the employers, might devise and disseminate awareness-raising and information materials among its members on the employers' role regarding the exercise of freedom of association; and (iii) that the campaign might include promoting good practices with respect to collective labour relations (for example, through an annual award from the CNTRLLS). ***In light of the foregoing, the Committee expresses the firm hope that the Government will be in a position in the very near future to report specific progress on the implementation of the awareness-raising campaign.***

While expressing its concern at the persistence in law and practice of serious violations of the Convention, the Committee welcomes the fresh impetus given to the implementation of the road map through priority actions identified by the ILO-IOE-ITUC joint mission and by the members of the CNTRLLS. The Committee emphasizes that it is vitally important that the expectations generated by the identification of such actions translate into tangible progress in the application of the Convention within the specified time frames. The Committee requests the Government to provide information on the various points highlighted in the present comment.

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2023.]

Guinea

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1959)

Previous comment

Article 3 of the Convention. Right of organizations to organize their activities and to formulate their programmes. In its previous comment, the Committee requested the Government to provide information on the work of the National Social Dialogue Council (CNDS) in resolving disagreements concerning the determination of minimum wages. The Committee also requested the Government to indicate the minimum services determined in the transport and communications services. The Committee notes the adoption of the new Decree of 31 May 2022 on the organization and functioning of the CNDS. The Committee notes that the Government indicates that it is in the process of adopting the measures necessary to render the CNDS operational and that the social partners have been requested to designate their members to allow the body to be up and running as soon as possible. According to the Government, as it is not yet operational, the CNDS has not intervened in resolving the disagreements concerning the determination of minimum wages. The Committee also notes that, according to the Government, following a number of collective disputes, minimum services have been determined at the level of certain institutions and that minimum services exist in the communication and transport sectors. ***In light of the above, the Committee once again requests the Government to provide information on the work of the CNDS, once operational, in the resolution of disagreements concerning the determination of minimum services. The Committee also once again requests the Government to provide information on the minimum services determined in the communication, transport and other sectors.***

In its previous comment, the Committee welcomed the establishment of the commission to review the Labour Code and hoped that sections 431.5 and 434.4 of the Labour Code, on minimum service in case of strikes and compulsory arbitration respectively, would be amended in conformity with the Convention. The Committee notes the Government's indication that the amendment process of the Labour Code is under way, in consultation with the social partners, and that the next step is to establish a commission which will be responsible for bringing together the different observations made regarding the inadequacies, shortcomings, legal gaps and desired rectifications in certain articles of the Labour Code. On completion of that task, a "sharing" workshop will be organized, at the latest in the month of November 2022. The Committee notes that the Government indicates that it has requested ILO technical assistance in this regard. ***The Committee requests the Government to report on all progress made in this respect and encourages the Government to continue to avail itself of the technical assistance of the Office in this connection.***

Haiti

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1979)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022, which contain allegations of police repression during peaceful demonstrations and strikes, as well as obstacles to the registration of trade unions. The Committee also notes the observations of the Confederation of Public and Private Sector Workers (CTSP) and the Confederation of Haitian Workers (CTH), received on 2 November 2022, which refer to the extremely

serious and violent crisis in the country, with the repercussions this has on the exercise of trade union rights, which are already particularly compromised. ***The Committee takes note of the extent of the crisis affecting the country at all levels and hopes that the Government will be able to comment on the issues raised in the near future.***

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes with ***deep concern*** that the Government's report, due since 2014, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Convention on the basis of whatever information is at its disposal. While being aware of the difficulties affecting the country, the Committee cannot but recall that it has been raising issues concerning the observance of the Convention in an observation and a direct request, including longstanding recommendations to bring the labour legislation into conformity with the Convention regarding provisions that unduly restrict: (i) the right of workers to establish and join organizations of their own choosing (minors, foreign workers, domestic workers); and (ii) the right of workers' organizations to organize their activities in full freedom and to formulate their programmes. ***Not having received any additional observations from the social partners, nor having at its disposal any indication of progress on these pending matters, the Committee refers to its previous observation and direct request adopted in 2020 and urges the Government to provide a full reply thereto. To this end, the Committee expects that any request for technical assistance that the Government may address to the Office will be acted upon as soon as possible.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1957)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022, which contain new allegations of serious violations of freedom of association in the textile sector, such as anti-union dismissals. The Committee also notes the observations of the Confederation of Public and Private Sector Workers (CTSP) and the Confederation of Haitian Workers (CTH), received on 2 November 2022, which, in the context of the extremely serious and violent crisis in the country, denounce the blatant limitations on the right to organize and bargain collectively in practice. ***The Committee notes the extent of the crisis affecting the country at all levels and hopes that the Government will be able to comment on the issues raised in the near future.***

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes with ***deep concern*** that the Government's report, which has been expected since 2014, has not been received. In light of the urgent appeal made to the Government in 2020, the Committee is proceeding with the examination of the application of the Convention on the basis of information at its disposal. While being aware of the difficulties faced by the country, the Committee recalls that it raised questions concerning the application of the Convention in an observation, which particularly concerned the need to strengthen protection against anti-union discrimination as well as the penalties provided in this regard. It recalls also that its comments concern allegations of serious violations of freedom of association in practice, especially in several enterprises in textile export processing zones, and the lack of social bargaining in the country. ***In the absence of additional observations from the social partners and having no indication at its disposal of progress made on these pending issues, the Committee refers to its previous observation of 2020 and urges the Government to provide a complete response in 2022 to the questions raised. For that purpose, the Committee expects that any request for technical assistance, in relation with Conventions ratified by the country, that the Government may wish to address to the Office will be taken up as soon as possible.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Hungary

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1957)

Previous comment

The Committee notes the observations of the workers' group of the National ILO Council at its meeting of 27 October 2021, included in the Government's report, which relate to the issues examined by the Committee below, and the Government's comments thereon.

Freedom of expression. In its previous comments, the Committee had noted with concern that sections 8 and 9 of the Labour Code (2012) prohibited workers from engaging in any conduct, including the exercise of their right to express an opinion – whether during or outside working time – that may jeopardize the employer's reputation or legitimate economic and organizational interests, and explicitly provided for the possibility to restrict workers' personal rights in this regard. The Committee considered that the above provisions impeded the freedom of expression of workers and the exercise of the mandate of trade unions and their leaders to defend the occupational interests of their members and expected that its comments would be fully taken into account in the framework of the ongoing review of the Labour Code. The Committee notes the Government's indication that in 2019, section 9 of the Labour Code was amended to implement the European Union reform on data protection. Pursuant to the amended text, "the employee's personality rights [including freedom of expression] may be limited only where the limitation is strictly necessary for a reason directly associated with the intended purpose of the employment relationship and is proportionate in order to achieve that objective. The employee shall be informed in advance in writing of the manner, conditions and expected duration of the restriction of the personality right, as well as of the circumstances justifying its necessity and proportionality". The Government points out that the amendment establishes stricter conditions for the restriction of the employees' rights, including freedom of expression set forth in Article IX (1) of the Fundamental Law. The Committee notes that the workers' group of the National ILO Council considers the amendment to section 9 (2) of the Labour Code to be only a partly sufficient response to the observation made by the Committee. The Committee also notes that the workers' group is of the view that section 8 (3) of the Labour Code refers to reputation and other legitimate interests of an employer as interests to be respected and not to be seriously violated in expressing opinion. The Committee notes the workers' group of the National ILO Council's proposal to hold consultations on necessary and proportionate limits to the constitutional right of employee's freedom of expression with involvement of experts and social partners. The Committee **regrets** that the Government merely indicates that the court being the competent body to interpret the conditions regulated by section 8 (1)-(3) of the Labour Code, the aggrieved party can bring appropriate claims in cases of violation of freedom of expression. **The Committee therefore urges the Government to take all necessary measures, including legislative, in consultation with the social partners, to guarantee that sections 8 and 9 of the Labour Code do not impede the freedom of expression of workers and the exercise of the mandate of trade unions and their leaders to defend the occupational interests of their members. The Committee requests the Government to provide information on all progress achieved in this respect.**

Article 2 of the Convention. Registration of trade unions. The Committee had previously requested the Government to provide its comments on the observations of the ITUC and the workers' group of the National ILO Council concerning allegations on the stringent requirements in relation to union headquarters, the refusal of registration due to minor flaws, the imposition of the obligation of including the company's name in the official name of associations, and the difficulties created or encountered by trade unions because of the obligation to bring their by-laws in line with the Civil Code. The Committee notes with **regret** that the Government did not provide comments in this respect. The Committee notes that the Government reiterates the information it had previously provided on the existing legal

framework for registration, and adds that from 1 June 2017 to 31 May 2021, 1,149 trade unions were registered and eight applications were rejected (three without a call for rectification due to an incomplete application, and five after the issuance of a request for rectification because the applicant did not properly comply with the court's order within the deadline). The Committee also notes the workers' group of the National ILO Council's observation that the implementation of *Article 2* of the Convention continues to be complicated by unnecessary requirements and that trade unions may only commence operations from the effective date of the court's decision on registration. The Committee further notes that, while the Government indicates that the courts no longer require the fulfilment of all minor requirements for court registration, the workers' group of the National ILO Council points out that the relevant Act has not been amended accordingly. ***In light of the above, the Committee is obliged to request once again the Government to provide its comments on the observations of the ITUC and the workers' group of the National ILO Council.*** The Committee recalls that, although the formalities of registration allow for official recognition of workers' or employers' organizations, these formalities should not become an obstacle to the exercise of legitimate trade union activities, nor should they allow for undue discretionary power to deny or delay the establishment of such organizations. ***Accordingly, the Committee once again requests the Government to: (i) engage without delay in consultations with the most representative employers' and workers' organizations to assess the need to further simplify the registration requirements, including those relating to union headquarters; and (ii) take the necessary measures to effectively address the alleged obstacles to registration in practice, so as not to impede the right of workers to establish organizations of their own choosing. The Committee also requests the Government to continue to provide information on the number of registered organizations and the number of organizations denied or delayed registration during the reporting period, and to provide additional details on the grounds for refusal of registration so to enable the Committee to better assess the conformity of these grounds with the Convention.***

Article 3. Right of workers' organizations to organize their administration. The Committee had previously requested the Government to provide its comments on the ITUC allegations that trade union activity was severely restricted by the power of national prosecutors to control trade union activities, for instance by reviewing general and ad hoc decisions of unions, conducting inspections directly or through other state bodies, and enjoying free and unlimited access to trade union offices. The ITUC further alleged that, in the exercise of these broad capacities, prosecutors questioned several times the lawfulness of trade union operations, requested numerous documents (registration forms, membership records with original membership application forms, minutes of meetings, resolutions, etc.) and, if not satisfied with the unions' financial reporting, ordered additional reports, thereby overstepping the powers provided by the law. The Committee notes with ***regret*** that the Government did not provide its comments on these serious allegations from the ITUC. ***Recalling that acts described by the ITUC would be incompatible with the right of workers' organizations to organize their administration enshrined in Article 3 of the Convention, the Committee again requests that the Government respond to the ITUC allegations.***

Right of workers' organizations to organize their activities. The Committee had previously highlighted the need to amend the relevant laws (including the Strike Act, the Passenger Transport Services Act and the Postal Services Act), in order to ensure that the workers' organizations concerned may participate in the definition of a minimum service and that, where no agreement is possible, the matter is referred to a joint or independent body. The Committee notes the Government's indication that having dealt with difficulties caused by the COVID-19 pandemic, it plans to put on the agenda a comprehensive amendment of the Strike Act. ***The Committee urges the Government to take all necessary measures to amend without further delay the Strike Act, as well as the Passenger Transport Services Act and the Postal Services Act as per the Committee's previous comments, and to provide information on all developments in this respect.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1957)

Previous comment

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2022 concerning matters examined by the Committee in the present comment. It further notes the observations of the International Organisation of Employers (IOE) received on 25 August 2022 concerning the discussions that took place at the Conference Committee on the Application of Standards with respect to the application of the Convention.

The Committee also notes: (i) the observations of the workers' group of the National ILO Council (NILOC) in relation to the Report sent by the Government in view of the discussion before the Committee on the Application of Standards; (ii) the summaries provided by the Government of the position expressed by the workers' group of the NILOC concerning the report submitted by the Government to the Committee.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

The Committee notes the discussions held at the Conference Committee in June 2022 on the application of the Convention by Hungary. The Committee notes that the Conference Committee, noting with concern the significant compliance gaps in law and practice regarding the protection against anti-union discrimination, the scope of collective bargaining permitted under the law and interference in free and voluntary collective bargaining with respect to the Convention, requested the Government to: (i) review relevant labour legislation to ensure that the representativity threshold is not set in a manner that prevents workers from exercising their right to collective bargaining; (ii) ensure that union officials, union members and elected representatives enjoy effective protection, in law and practice, against any act prejudicial to them, including dismissal, based on their status or activities; (iii) ensure no undue interference in the establishment, functioning and administration of trade unions; and (iv) provide information on the average duration of both judicial proceedings and proceedings before the Equal Treatment Authority (ETA) related to anti-union discrimination.

The Committee further notes that the Conference Committee requested the Government to: (i) avail itself, without delay, of ILO technical assistance, to ensure compliance with the provisions of the Convention in law and practice; and (ii) submit a report to the Committee by 1 September 2022 on the application of the Convention.

The Committee notes that in July 2022, the Government requested the technical assistance of the Office with respect to the Convention and that a first meeting took place in August 2022 in order to exchange on the modalities of such assistance.

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. The Committee recalls that it had requested the Government to ensure that trade union officials and members enjoy effective protection against anti-union discrimination and to provide information on the average duration of the related judicial and administrative proceedings. Concerning the specific protection of trade union officials, the Committee notes with **satisfaction** the Government's indication that, as a result of Act CLIX of 2017 the definition of employee representatives in the Labour Code now covers trade union officials, enabling them to request their reinstatement in case of unlawful dismissal.

As for trade union members other than officials, the Committee noted in its previous comment the legal provisions of the Labour Code that provide, through judicial procedure, for compensation (not exceeding the worker's 12-month absentee pay) in case of dismissal and reinstatement in case of violation of the principle of equal treatment (section 82 and 83(1)(a) of the Labour Code). The Committee

further notes the Government's indication that the trade union member may demand compensation under section 166(1) of the Labour Code if the employer caused damage to the employee in connection with the employment relationship. As for the procedure under the Equal Treatment Act in response to the Committee's previous comment, the Government indicates that the legal consequences set out in the Equal Treatment Act do not extend to reinstatement and the ETA may not provide for compensation. The ETA, however, may impose a fine of HUF50,000 to HUF6 million and order the publication of its anonymised final decision.

Concerning the Committee's request to provide information on the average duration of both judicial proceedings and proceedings before the ETA, the Committee notes that the Government only provided data for the average processing time before the ETA (66 days excluding the duration of suspension). The Committee also notes that out of the 17 cases submitted before the ETA since June 2017, 10 cases resulted with the rejection of the request and 7 with the termination of the proceedings. The Committee notes that while the reported data allows for a better understanding on the number of submissions, it does not provide sufficient information to determine the grounds on which the cases were rejected by the ETA.

The Committee takes note of the observations of the workers' group of the NILOC that the legislation lacks dissuasive sanctions and that the data provided on the cases examined by the ETA illustrate both the low number of proceedings and that in the majority of cases the ETA rejects the applications submitted by employees and trade unions. Regarding the above, the Committee wishes to recall that the existence of legal provisions prohibiting acts of anti-union discrimination is not enough if they are not accompanied by effective and rapid procedures to ensure their application in practice and if the sanctions provided for are not effective and sufficiently dissuasive. ***In view of the above, the Committee requests the Government to: (i) provide comprehensive information on the average duration of both judicial proceedings and proceedings before the ETA, together with details on remedies provided, the number of claims rejected and the grounds for any such rejections; (ii) provide information on the legal provisions under which anti-union discriminatory acts, other than dismissal, can be remedied and the way they are applied; and (iii) carry out, in consultation with the social partners, a comprehensive examination of the effectiveness of the existing protection mechanisms against anti-union discrimination. The Committee requests the Government to provide information in this regard.***

Article 2. Adequate protection against acts of interference. In its previous comment the Committee requested the Government to take steps to adopt specific legislative provisions prohibiting such acts of interference on the part of the employer and making express provision for rapid appeal procedures, coupled with effective and sufficiently dissuasive sanctions.

The Committee notes the Government's indication that in addition to the provisions of the Labour Code, the autonomy of trade unions is regulated by Act CLXXV of 2011 on the right of association and the Civil Code. The Committee notes the detailed description from the Government of the various provisions of the above laws and the indication that since Act LV of 2000 on the promulgation of the Convention forms part of the Hungarian legal system, consequently *Article 2* of the Convention should also be deemed applicable. The Committee observes however that neither Act LV of 2000 which contains the official Hungarian translation of the Convention nor the other legislative instruments mentioned by the Government include provisions that specifically prohibit and sanction the acts of interference covered by *Article 2* of the Convention. ***The Committee is therefore bound to reiterate its previous comment and request the Government to take steps to adopt specific legislative provisions prohibiting such acts of interference on the part of the employer and making express provision for rapid appeal procedures, coupled with effective and sufficiently dissuasive sanctions.***

Article 4. Promotion of collective bargaining. Representativeness requirements. The Committee notes the Government's explanation that the uniform 10 per cent threshold for conclusion of collective

agreements set by legislation was established with the goal to enhance collective negotiations and to simplify the previous conditions set regarding the ability to conclude collective agreements. The Government adds that deviation from the 10 per cent threshold would: (i) enable trade unions with fragmented support under the 10 per cent threshold to exercise the right to jointly conduct collective bargaining and conclude collective agreement; and (ii) could set aside a trade union or a confederation that alone reaches the 10 per cent threshold. The Committee notes the observations received from the workers' group of the NILOC that the law restricts the 'coalition' of trade unions for collective bargaining in cases when no trade union reaches the 10 per cent threshold. ***The Committee requests the Government, after consultation with the representative social partners, to examine the possibility of allowing for the coalition of trade unions at the workplace in cases where no trade union reaches the required representativity individually.***

Negotiation with work councils. The Committee notes the observations of the workers' group of the NILOC concerning the possibility for works councils to enter into agreement with the employer in relation to working conditions (except on remuneration). The Committee notes that according to the wording of section 268(1) of the Labour Code: "Such agreements may be concluded on the condition that the employer is not covered by a collective agreement it has concluded, or there is no trade union with entitlement to conclude a collective agreement". The Committee notes that under this provision, an employer is entitled to conclude a collective agreement with a works council even if there is a trade union organization in the company, as long as the latter does not reach the representativeness threshold set by the legislation to be able to bargain collectively. The Committee recalls that *Article 4* of the Convention refers to collective bargaining between employers or employers' organizations on the one hand and workers' organizations on the other hand, and that it considers that, in order to ensure an effective promotion of the negotiating capacities of workers' organizations, negotiations with non-union actors should only be possible in the absence of trade unions at the respective level. ***The Committee therefore requests the Government, after consulting the representative social partners, to review section 268(1) of the Labour Code accordingly.***

Material scope of collective bargaining in publicly-owned entities. In its previous comments, under the Collective Bargaining Convention, 1981 (No. 154), the Committee requested the Government to indicate which subject matters were excluded from the scope of collective bargaining in publicly-owned entities. The Committee understands that this question concern mainly public sector workers not engaged in the administration of the State that are therefore fully covered by the Convention.

The Committee notes the Government's response that sections 204–208 of the Labour Code set out the rules on employment at publicly-owned entities. These rules are mandatory and cannot be derogated neither by an individual nor by a collective agreement (section 213(f) of the Labour Code). These rules encompass: the notice period and severance payment, exceptions to working time (i.e. break from work, except for stand-by work; travel time), full daily working time shorter than general full daily working time may not be prescribed in a publicly-owned entity, except to prevent a hazard or danger to health (section 205(3) of the Labour Code). Finally, derogation from provisions of Chapters XIX-XXI of the Labour Code regulating labour relations is not permitted (section 206 of the Labour Code). Chapters XIX-XXI concern the regulation related to the establishment, functioning and dissolution of works councils and trade unions, including rules related to time allowances provided for trade union officials. The Government indicates that such rules were required by the special "legal status" and economic role of the employer in publicly-owned entities to ensure efficient management and prevention of abuse of State assets, enhanced enforcement of public interest, performance of public functions, publicity related to community objectives and to improve public opinion of companies.

The Committee recalls that workers of state-owned commercial or industrial enterprises are fully covered by the Convention. While the special characteristics of the public service, may allow for some flexibility, legislative measures taken unilaterally by the authorities to restrict the scope of negotiable issues are often incompatible with the Convention, and tripartite discussions are a particularly

appropriate method of resolving these difficulties. While taking note of the justification provided for by the Government, the Committee is of the view that the matters excluded from collective bargaining at publicly-owned entities under articles 205-206 go beyond the restrictions that are compatible with the Convention. ***The Committee therefore requests the Government to initiate discussions with the social partners in order to revise the referred restrictions of the material scope of collective bargaining in publicly-owned entities.***

Collective bargaining in practice. The Committee notes the data provided by the Government on the number of collective agreements for the period of 2012–19. While noting the observation of the workers' group of the NILOC that it is unclear from the data what the number of agreements refers to, the Committee observes that the data shows that in the private sector, in spite of a small increase in the number of collective agreements (from 942 in 2012 to 1011 in 2019), the number of workers covered decreased over the same period of time (from 442,723 to 397,650). In the public sector, both the number of agreements and the number of workers covered decreased at a higher rate (from 1,735 to 820 and from 261,401 to 193,695). In terms of data available for collective agreements covering more than one employer or institution, the data indicates a slightly upward trend in the private sector (from 81 to 84 and 204,585 to 229,477) though the data on collective agreements covering more than one institution in the public sector only refers to the agreement concluded between the State Health Care Centre in 2018, covering 56,612 employees. The Committee also notes that according to the data available at ILOSTAT, the collective bargaining coverage rate in Hungary in 2019 stood at 17.8 per cent. With respect to sectoral level collective bargaining, the Committee notes that there are currently three extended sectoral collective agreements in the construction, tourism and hospitality, and electricity industry. The Committee takes note of the information provided by the workers' group of the NILOC according to which there was a significant decline in the operation of Sectoral Dialogue Committees, partially due to the decrease in governmental support to their operation. The workers' group also indicates that recent amendments to provisions on extension of collective agreements further complicated and increased the bureaucracy of the option of extension. ***The Committee requests the Government to provide its comment on the workers' observation concerning the extension mechanism and to supply information on the rules relevant to sectoral collective bargaining, including with respect to the extension of collective agreements.***

The Committee finally requests the Government to continue providing information on the number of collective agreements signed, the sectors concerned and the share of the workforce covered by collective agreements and to also provide the same statistics, where available, for works agreements.

The Committee hopes that the technical assistance requested from the Office will contribute to the full application of the Convention both in law and in practice.

The Committee is raising other matters in a request addressed directly to the Government.

Indonesia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1998)

Previous comment

The Committee takes note of the observations of the Confederation of Indonesian Trade Unions (KSPI), the Indonesia Trade Union Prosperity (KSBSI), and the International Trade Union Confederation (ITUC), received on 31 August, 2 and 6 September 2021, respectively, referring to the issues raised by the Committee below. The Committee also notes the ITUC allegation that Law No. 11 of 2020 or the Omnibus Law on Job Creation restricts the right to strike as it grants police officers significant discretion

to imprison or fine union members for participating in or inviting others to participate in lawful strike action. The Committee understands that the Omnibus Law is undergoing a revision. ***The Committee requests the Government to provide its comments on the ITUC allegations and to provide information on the revision of the law and its regulations.***

Trade union rights and civil liberties. The Committee had previously requested the Government to engage in tripartite discussions to ensure the effective implementation of a code of conduct for workers' demonstrations and industrial actions. While noting the Government's indication that tripartite discussions on the procedures for handling lawful demonstrations and industrial actions were held, the Committee notes with **concern** the ITUC allegation of violence and arrests by the police in relation to a strike action by more than a million workers against the Omnibus Law. The ITUC denounces the use of water cannons and tear gas resulting in the injury of 32 members of the Federation of Indonesia Metalworkers in Bekasi; and the arrests of 183 workers in Southern Sumatra, 200 workers in Jakarta and a further ten workers for striking outside working hours. The Committee notes the Government's indication that the strike action was anarchic and disrupted public peace and order. The Government adds that it had the right to act decisively against unlawful strikes carried out in violation of national law which established the Tripartite forum as the lawful forum for the discussion of labour policy issues. ***The Committee requests the Government to provide detailed information on the outcome of the tripartite discussions and on progress made toward any agreed measures to ensure the effective implementation of a code of conduct for workers' demonstrations and industrial actions. Recalling that in cases of strikes, the authorities should only resort to the use of force in exceptional circumstances and in situations of gravity where there is a serious threat of public disorder, and that such use of force must be proportionate to the circumstances, the Committee urges the Government to indicate all steps taken or envisaged to ensure the application of that principle.***

The Committee had previously expected the Government to clarify that sections 160 and 335 of the Penal Code, respectively on "instigation" and "unpleasant acts" against employers, did not apply to abstract trade union activities. The Committee notes the Government's indication that the Penal Code applies to all citizens without making any distinction between trade union and other activities. The Government adds that the Code is undergoing an amendment, taking into account the existing regulations. ***The Committee requests the Government to ensure that the amended Penal Code excludes lawful trade union activities from the scope of sections 160 and 335 of the Code. The Committee further requests the Government to provide information on all developments in this regard.***

Article 2 of the Convention. Right to organize of civil servants. The Committee had previously expressed trust that the Government would adopt the implementing regulations to give effect to the right of civil servants to form and join organizations of their own choosing. The Committee notes the Government's indication that the Trade Union Act applies to private sector workers while civil servants are covered by Law No. 5 of 2014 concerning Civil Servants. Moreover, the Constitution (Article 28 E) grants civil servants, in their capacity as citizens, the right to join any professional organization of their choosing. The Committee further notes that the Government refers to an obligation imposed on civil servants, depending on their status, to join respective professional organization of Functional Positions (JF) or KORPRI, a professional forum of which civil servants became members automatically upon their admission to service. The Committee observes that these organizations do not appear to be organizations in the sense provided for by the Convention or equivalent to organizations of workers of the private sector. ***The Committee once again requests the Government to take necessary measures to ensure the right of civil servants to form and join organizations of their own choosing, as is their right under the Convention, and to provide information on all steps taken to that end.***

Article 3. Right of workers' organizations to organize their activities. The Committee had previously requested the Government to provide information on the number of interest disputes referred to conciliation and mediations, and those referred to the industrial court without the consent of the

parties. The Committee takes due note of the Government's indication that there were 92 such cases reported between January and July 2021, with none being referred to the industrial court.

The Committee had previously invited the Government to discuss, within the framework of the National Tripartite Council, the effect of Presidential Decree No.63/2004 on the security of national vital objects (NVOs) and of the Ministry of Industry (MOI) Decree No. 466/2014, which enables companies or industrial areas to request assistance from the police and the military upon a disruption or threat to NVOs in their territory. The Committee notes the Government's indication that the MOI determines NVOs, and the Presidential Decree extends the application of security measures against threats to NVOs to the public, including trade unions. The Government informs that the Constitution (Article 28E) and the Trade Union Act guarantee the right to associate, negotiate, and carry out trade union activities in companies that are part of NVOs. The Government informs that it will submit a proposal to discuss the impact of laws and regulations related to NVOs in the National Tripartite Cooperation Institution. Recalling it had previously noted claims by the KSPI and KSBSI that these Decrees are used to suppress the exercise of freedom of association, including provision of examples thereof, the Committee **regrets** that the application of the above-mentioned Decrees has not been yet discussed with the social partners. **The Committee urges the Government to take all necessary steps to ensure that such a discussion takes place without further delay.**

Article 4. Dissolution and suspension of organizations by the administrative authority. The Committee had previously requested the Government to indicate whether section 42 of the Trade Union Act could be used in conjunction with sections 21 and 31 to dissolve trade unions. The Committee takes due note of the Government's indication that sections 42, 21 and 31 of the Act cannot be invoked in conjunction to dissolve trade unions.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1957)

Previous comment

The Committee takes note of the observations of the International Trade Union Confederation (ITUC), the Indonesia Trade Union Prosperity (KSBSI) and the Confederation of Indonesian Trade Unions (KSPI) received on 6 September 2021, 1 September 2021, and 31 August 2021 respectively, and the Government's replies thereon.

The Committee notes that several of these observations refer to the impact on the application of the convention of Law No. 11 of 2020 on Job Creation (the so-called "Omnibus Law"). The Committee notes in this regard: (i) the concern expressed by the KSPI that the law exposes certain categories of workers to greater risk of anti-union discrimination; and (ii) the concerns expressed by the ITUC that the "Omnibus law" would restrict the scope of collective bargaining agreements (CBAs), in particular for workers in micro and small enterprises (MSEs). The Committee notes in this respect the Government's indication that the law is in line with *Article 4* of the Convention, since the wages in MSEs are determined based on the agreement between the employer and workers, and the regulation of wages in this sector is intended to protect workers' wages considering the potentially low capacity of employers in the sector to remunerate. **Noting that the law is undergoing revision as a result of a decision of the Constitutional Court (25 November 2021), the Committee requests the Government to examine the concerns expressed by the trade unions before the National Tripartite Council with a view to ensuring the full conformity of the revised law with the Convention. The Committee requests the Government to provide information on the ongoing revision process and to provide a copy and a translation of the law once adopted.**

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. The Committee previously requested the Government to provide statistics on the anti-union discrimination

complaints received and sought information on whether these complaints were brought before the courts and on any remedies or sanctions imposed. The Committee observes that the Government limits itself to informing that there were six recorded cases of anti-union discrimination between 2019 and 2020 and that it seeks clarifications from the relevant parties of such cases. The Committee notes the indication of the KSBSI denouncing instances of anti-union discrimination and interference in multiple enterprises. ***The Committee requests the Government to respond to these allegations and to provide statistics on the number of complaints of anti-union discrimination and interference filed, the number of complaints brought before the courts, as well as any remedies and sanctions imposed and the average duration of proceedings under each category.***

Article 2. Adequate protection against acts of interference. The Committee previously requested the Government to inform on the developments in reviewing section 122 of the Manpower Act, which allows the presence of employers in a voting procedure of trade unions, to ensure that interference by employers during the procedure is prohibited. The Committee notes with **concern** that the Government is satisfied with the provision and does not deem it necessary to amend it. The Government informs that the provision is intended to ensure that workers are not pressured during a vote because they are not members of a trade union. The government adds that the provision is useful in enterprises where the majority of the workforce are not union members and that it has not received complaints of interference by employers during voting. ***Highlighting the need to ensure adequate protection against acts of interference in practice, the Committee expects the Government to amend section 122 of the Manpower Act, so as to prohibit the presence of the employer during voting procedures. The Committee requests the Government to provide information in this respect.***

Article 4. Promotion of collective bargaining. The Committee previously requested the Government to review sections 5, 14 and 24 of Law No. 2 of 2004 or the Industrial Relations Dispute Settlement Act (IRDS Act), to ensure that compulsory arbitration during collective bargaining can only be invoked under exceptional circumstances. The Committee notes the Government's indication that it does not consider the review of the above-mentioned articles a matter of urgency since there was only one instance of a conflict of interest arising with regards to compulsory arbitration. The Committee recalls that compulsory arbitration is only acceptable (i) in essential services in the strict sense of the term; (ii) in the case of disputes in the public service involving public servants engaged in the administration of the State; (iii) when, after protracted and fruitless negotiations, it becomes obvious that the deadlock will not be broken without some initiative by the authorities; or (iv) in the event of an acute crisis (2012 General Survey on the fundamental Conventions, paragraph 247). ***It therefore urges the Government to take measures to amend sections 5, 14 and 24 of the IRDS Act, to ensure that the principle of free and voluntary collective bargaining is fully respected.***

Recognition of organizations for the purposes of collective bargaining. The Committee previously requested the Government to provide statistics on the number of CBAs concluded at enterprise level and the coverage of workers by such agreements. The Government indicates that as of August 2021, there were 16,194 CBAs concluded across 34 provinces in the country and adds that statistical data collected annually, between 2016 (13,371 agreements) and 2021, has indicated an increase (21.1 per cent) in the number of collective agreements concluded. The Government informs that CBAs concluded post negotiations between the management and trade unions are registered. ***The Committee requests the Government to continue providing statistics on the number of CBAs specifying the sectors of activity concerned and the number of workers covered.***

Collective bargaining at the sectoral level. The Committee previously requested the Government to provide information on the developments concerning the pilot exercise to promote collective bargaining in Bekasi, and its impact on collective bargaining at the sectoral and regional levels. The Committee notes the Government's indication that the Directorate General of Industrial Relations and Social Security conducted several capacity building activities labelled "Training of Trainers for skills in negotiating CBAs," targeting unions and employers, aiming to improve negotiation skills and to

promote an increase in the number of CBAs. The Government states that the trainers included members of the tripartite groups from across Indonesia and that the trainings have resulted in a 21.1 per cent increase in the number of CBAs concluded between 2016 and 2021. The Government indicates that the regulations enacted would be difficult to apply or implement at the sectoral level since sectoral CBAs only pertain to general matters while specifics are governed by enterprise level CBAs. Therefore, the Government informs that its focus is to promote the creation of CBAs at the enterprise levels in order to prevent disputes in the future. The Committee considers that in practice, the issue is essentially a matter for the parties, who are in the best position to decide the most appropriate bargaining level including, if they so wish, by adopting a mixed system of framework agreements supplemented by local or enterprise level agreements (2012 General Survey on the fundamental Conventions, paragraph 222). **Recalling that collective bargaining should be possible at all levels, the Committee requests the Government to take the necessary steps to also promote collective bargaining at the sectoral and regional levels and to provide information in this regard.**

Export processing zones (EPZs). The Committee previously requested the Government to examine within the framework of the National Tripartite Council the concerns raised by ITUC, KSBSI and KSPI regarding the alleged denial of the rights under the Convention to workers in EPZs. The Committee notes the Government's indication that there are no specific zones designated as EPZs but instead several zones, labelled differently, that produce export products. The Government states that during the tripartite consultations, it requested and is currently waiting for the information from trade unions regarding the complaints of anti-union discrimination and interference. **The Committee requests the Government to take the necessary steps to ensure that the rights under the Convention are guaranteed for workers in all the zones, equivalent to EPZs, where export products are produced and to continue to inform it of the progress in the above-mentioned tripartite consultations. The Committee further requests the Government to provide information on the number of collective agreements in force in the referred zones, with an indication of the number of workers covered. In this regard, the Committee also requests the Government to provide information, including statistical data, on any trends observed in the coverage of the collective agreements concluded in the referred zones.**

Iraq

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1962)

Previous comment

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2022 concerning matters examined by the Committee in the present comment. It further notes the observations of the International Organisation of Employers (IOE) received on 1 September 2022 concerning the discussions that took place at the Conference Committee on the Application of Standards with respect to the application of the Convention.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

The Committee notes the discussion which took place in June 2022 in the Conference Committee on the Application of Standards (the Conference Committee) concerning the application of the Convention by Iraq. The Committee observes that the Conference Committee, after noting with concern that there were significant compliance issues regarding the Convention in law and practice with respect to the protection against anti-union discrimination, the lack of trade union pluralism and the promotion of collective bargaining without interference, urged the Government to: (i) provide information on measures taken or envisaged to encourage and promote voluntary collective bargaining, the number

of collective agreements concluded and in force in the country, as well as the sectors concerned and the number of workers covered by these agreements; (ii) prohibit acts of undue interference in the establishment, functioning and administration of trade unions and make provision for appeal procedures, coupled with effective and dissuasive sanctions; (iii) undertake legal and practical measures to ensure protection against anti-union discrimination, including through effective and expeditious access to courts, adequate compensation and the imposition of sufficiently dissuasive sanctions; and (iv) take all appropriate legal and practical measures to ensure that trade union rights can be exercised in normal conditions with respect for basic human rights and in a climate free of violence, pressure, fear and threats of any kind.

The Conference Committee also invited the Government to accept an ILO direct contacts mission and to submit a report to the Committee of Experts by 1 September 2022.

The Committee notes that since the discussions in the Conference Committee the Government requested ILO technical assistance with regard to the reform of the Trade Union Law and with respect to awareness-raising activities among different Government agencies and the Parliament. The Committee notes that the Office submitted the requested technical comments concerning the draft trade union law. The Committee welcomes the indications received from the Government that it stands ready to invite a direct contacts mission to visit Iraq. The Committee understands that the mission has not taken place yet due to the political situation, but that the current tentative agreement with the Office is for the direct contacts mission to visit Iraq during the first quarter of 2023.

Civil liberties. The Committee notes the conclusions of the Conference Committee concerning the need for the Government to take all appropriate legal and practical measures to ensure that trade union rights can be exercised in normal conditions with respect for basic human rights and in a climate free of violence, pressure, fear and threats of any kind. Noting the information provided by the ITUC in this respect, the Committee recalls that the ILO supervisory bodies have unceasingly stressed the interdependence between civil liberties and trade union rights, emphasizing that a truly free and independent trade union movement can only develop in a climate free from violence, pressure and threats of any kind against the leaders and members of such organizations (2012 General Survey on the fundamental Conventions, paragraphs 59–60). ***The Committee calls upon the Government to take all measures necessary to ensure that trade unions, their leaders, and their members can exercise their rights under the Convention, including collective bargaining, with full respect for their civil liberties.***

Trade union monopoly. The Committee previously recalled the need to remove any obstacles to trade union pluralism and had noted with interest the Government's indication that Government Decision No. 8750 of 2005 had been repealed. It had also requested the Government to take the necessary measures to repeal the Trade Union Organization Act No. 52 of 1987. In this respect, the Committee notes the observations from ITUC stressing the negative impact on freedom of association created by section 21 of the referred Trade Unions Act, which provides that the General Federation of Trade Unions is the supreme body for the trade unions. The Committee notes the Government's indication that a process has been initiated to amend this Act and that it submitted a request to the ILO for the provision of comments on the new draft Act. The Committee notes that the draft Act stipulates that "[t]he State shall guarantee the right to form and join trade union organizations by the workers, the employees, and the self-employed in all sectors, without any kind of discrimination" and welcomes the fact that this provision appears to be aimed at addressing the concerns raised repeatedly concerning legislative constraints on trade union plurality. ***Recalling that the capacity for workers to choose the union representing them is an important element of the principle of free and voluntary collective bargaining, the Committee hopes that any remaining obstacle to the possibility of trade union pluralism will soon be removed from the legislation.***

The Committee further notes that article 1(12) of the new draft Trade Union Act defines the most representative trade union organization as "the organization with the most membership" while article

50 stipulates that “the most representative organizations of workers and employees are determined according to rules developed through the tripartite dialogue between the government, workers’ organizations and employer’s organizations”. With regard to the criteria to be applied to determine the representative status of organizations for the purposes of bargaining, the Committee emphasizes the importance of ensuring, in case controversy should arise, that these criteria are objective, preestablished and precise so as to avoid any opportunity for partiality or abuse (2012 General Survey on the fundamental Conventions, paragraph 228). Observing that article 1(12) solely refers to a numerical criterion, the Committee also recalls that practice shows that criteria used to determine the representativeness of organizations can be broadly divided into quantitative criteria (membership, geographical/sectoral coverage, economic importance of sector or territory) and qualitative criteria (financial/organizational independence, respect for democratic principles, legal status, and influence). For consultations at national level concerning broad social and economic policy issues and in situations of economic and political transition, it may be more important to ensure that all relevant organizations are represented and not just those organizations with the most members, so as to ensure fully informed decision-making and wide support for the process and its outcomes. On the other hand, quantitative criteria may play a more important role when determining which union can engage in enterprise-level bargaining. ***The Committee invites the Government to take into account the elements mentioned above when engaging with the social partners with a view to establishing the criteria for representativeness of trade unions and employers’ organizations. The Committee requests the Government to provide information in this respect.***

Scope of the Convention. Public servants not engaged in the administration of the State. The Committee previously requested the Government to ensure that the rights in the Convention were applicable to all public servants not engaged in the administration of the State. It noted that section 3 of the Labour Code stipulates that its provisions do not apply to “public officials appointed in accordance with the Civil Service Law or a special legal text” and “members of the armed forces, the police and the internal security forces”. The Committee also notes the allegations from ITUC that section 10 of the Revolutionary Council Resolution No. 115 of 1987 also prohibits the establishment of public sector unions. The Committee recalls, once again, that the Convention covers all workers and employers, and their respective organizations, in both the private and the public sectors, regardless of whether the service is essential, and that the only exceptions authorized concern the armed forces and the police, as well as public servants engaged in the administration of the State. It also recalls that under *Articles 4 and 6* of the Convention, persons who are employed in the public sector but by their functions are not directly engaged in the administration of the State (employees in public enterprises, municipal employees and those in decentralized entities, public sector teachers, transport sector personnel, etc.) should benefit from the guarantees provided for in the Convention. The Committee notes that, while the new draft Act on Trade Unions appears to extend the right to organize to all sectors, its article 3(2)(1), excludes from the scope of application of the draft law the “unions and associations established in accordance with specific legislation”. ***The Committee therefore requests the Government to ensure that all public servants not engaged in the administration of the State benefit from the rights enshrined in the Convention and to specify through which pieces of legislation such rights are recognized. It also requests the Government to clarify whether Revolutionary Council Resolution No. 115 of 1987 is still in force, and, if so, ensure its contents are in line with the requirements of the Convention.***

Article 1 of the Convention. Protection against acts of anti-union discrimination. Sufficiently dissuasive sanctions. The Committee previously noted that section 11(2) of the Labour Code stipulates that whoever violates the sections relating to discrimination shall be punished by imprisonment for a period not exceeding six months and a fine not exceeding one million dinars (approximately US\$685) or by any of the two sanctions. It considered that the amount of the fine referred to above may not be adequate to deter and prevent the repetition of acts of anti-union discrimination, in particular in large enterprises. The Committee notes that Article 10 of the new draft Trade Union Act prohibits any form of

discrimination against any worker or employee for his/her participation in any union activity and that articles 45–47 protect trade union members, the workers' representatives and their organizations against any violation of the provisions of the law. The Committee welcomes the fact that these draft provisions also introduce substantially more significant penalties for violations of the Act, as compared to those in the Labour Code, including penalties ranging from 5 to 10 million Iraqi dinars (approximately US\$3,450 to 6,900), a requirement of reinstatement, and possible imprisonment for not less than one month and not more than six months for certain types of violations. At the same time, the Committee notes that the referred draft provisions only refer to anti-union dismissals and do not mention other acts of anti-union discrimination, including those carried out at the time of hiring and in the course of employment. In light of the ITUC allegations of the continued and widespread occurrence of acts of anti-union discrimination, the Committee also recalls, that sanctions, even when sufficiently high, will not act as a deterrent if not consistently applied by the relevant administrative or judicial authorities. ***The Committee requests the Government to adjust the relevant provisions of the new draft Trade Union Act to include a clear prohibition of all types of discriminatory measures on the ground of union membership or union activities both at the time of hiring and during employment, including exclusions from the hiring process or promotion, termination of employment, transfers, downgrading and other acts that are prejudicial to the worker. It also requests the Government to take the necessary measures to ensure that (i) the sanctions actually imposed in cases of anti-union discrimination are sufficiently dissuasive; and (ii) relevant law enforcement and judicial authorities are aware of the persistent problems concerning acts of anti-union discrimination in Iraq and understand their role in ensuring enforcement of the relevant legal provisions. In this regard, the Committee requests the Government to provide information on the sanctions imposed in practice.***

Anti-union dismissal. The Committee previously noted that section 145 of the Labour Code provides that when the penalty of dismissal has been imposed on a worker, such decision may be challenged within 30 days before the Labour Court. It also noted, however, that the Labour Code does not specify which sanctions are applicable in the event of anti-union dismissal. In this respect, the Committee welcomes the inclusion of sub-section (3) of article 45 in the new draft Trade Union Act, which contains a right of reinstatement for workers who have been dismissed due to their engagement in lawful trade union activities. ***The Committee requests the Government to ensure that the remedy of reinstatement proposed in the new draft Trade Union Act concerning dismissal as an act of anti-union discrimination will be accompanied by a retroactive compensation that will both act as a dissuasive sanction and ensure appropriate redress.***

Rapid appeal procedures. The Committee previously noted that workers may resort to the Labour Court to file a complaint when exposed to any form of discrimination in employment and occupation. In this respect, the Committee notes that sub-section (3) of article 45 in the new draft Trade Union Act includes a time frame of 15 days for reinstatement from the date of the dismissal. ***While highlighting the importance of establishing swift procedures to resolve anti-union dismissal cases in an effective manner, the Committee invites the Government to take the necessary measures to ensure that the remedies proposed in the new draft Trade Union Act concerning anti-union dismissal can be effectively applied in practice.***

Article 2. Protection against acts of interference. The Committee noted previously that the Labour Code does not contain any provisions which explicitly prohibit acts of interference. In this respect, it welcomes the inclusion of article 44 in the new draft Trade Union Act, which specifically prohibits acts of interference. As noted above concerning sanctions for acts of anti-union discrimination, the Committee considers that sanctions for acts of interference should be effective and sufficiently dissuasive. ***The Committee requests the Government to ensure that the remedies proposed in the new draft Trade Union Act concerning acts of interference can be effectively and rapidly applied in practice and are sufficiently dissuasive to prevent and sanction acts of interference.***

Article 4. Promotion of collective bargaining in law and practice. The Committee notes the information provided by the Government concerning the legislative framework in the Labour Code governing collective bargaining. It also notes, however, the Government's indication that no collective bargaining agreements have yet been concluded in the country. The Committee considers that the absence of collective bargaining agreements in Iraq suggests that serious impediments exist, either in law or practice, for the free and voluntary exercise of the right to collective bargaining. In this respect, highlighting the obligation to promote free and voluntary collective bargaining established by *Article 4* of the Convention, the Committee recalls that collective bargaining should not be hampered by the inadequacy or inappropriateness of such rules. It also draws the attention of the Government to the means to facilitate and promote collective bargaining contained in the Collective bargaining Recommendation, 1981, (No. 163) aimed at achieving the general principles set out in *Article 4* of the Convention. ***The Committee requests the Government to ensure that its legal framework allows for the free and voluntary exercise of the right to collective bargaining and to take the necessary measures to promote collective bargaining.***

Legislative consistency. The Committee has referred several times to provisions in the new draft Trade Unions Act in the present comment, as well as to provisions of the Labour Code which provide lower levels of protection than the draft Trade Union Act. ***The Committee requests the Government to ensure that any new legislative measures taken in conformity with the requirements of the Convention repeal and replace older legislative and regulatory provisions less favourable to the assertion and promotion of the right to collective bargaining.***

The Committee welcomes the Government's request of ILO technical assistance as well as the steps it has taken to bring its legislation into conformity with the Convention. It hopes that the direct contacts mission will be able to take note of tangible progress, both in law and in practice, in the application of the convention. It requests the Government to continue providing information on any progress achieved in the implementation of the different points addressed in the present comment.

Jamaica

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1962)

Previous comment

The Committee notes the observations of the Jamaica Confederation of Trade Unions (JCTU) and the Jamaica Employers Federation (JEF) transmitted with the Government's report. The Committee also notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2022 alleging obstacles to the exercise of trade union rights in the business process outsourcing sector operating in special economic zones (SEZs). The ITUC alleges, in particular, that no trade union representation has been allowed in the more than 70 companies employing 40,000 workers in the sector.

Article 2 of the Convention. Right of workers to establish and join organizations. The Committee had previously requested the Government to take the necessary measures to amend section 6(4) of the Trade Union Act (TUA) with a view to ensuring that penalties are not imposed on workers for their membership and participation in activities of an unregistered trade union. The Committee notes the Government's indication that steps are being taken to repeal section 6(4) of the TUA, and notes the JEF's observation strongly supporting the repeal. The Committee also notes the JCTU's observations supporting the possibility of workers to establish and join organizations outside of trade unions, but such organizations should not assume the rights of registered trade unions under the TUA. ***The Committee regrets the lack of progress and urges the Government to take the necessary measures***

without further delay, in consultation with the social partners, to amend its legislation. The Committee requests the Government to inform it of developments in this regard.

Article 3. Interference in the financial administration of a trade union. The Committee had previously requested the Government to take the necessary measures to restrict the Registrar's discretionary rights to carry out inspections and request information with regard to trade union finances at any time as provided in section 16(2) of the TUA. The Committee notes the Government's indication that the matter has not yet been reviewed. The Committee further notes the JCTU's observations to the effect that the control exercised by public authorities should not be outside of the reasonable requirements of submitting periodic reports set out in section 16(1) of the TUA. The Committee also notes the JEF's observations regarding the need to reform section 16(2) of the TUA. ***Noting with regret that the Government has not undertaken any steps in this regard, the Committee urges the Government to take the necessary measures, in consultation with the social partners, to amend section 16(2) of the TUA so as to ensure that the control exercised by the public authorities over trade union finances does not exceed the obligation to submit periodic reports. The Committee requests the Government to inform it of developments in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1962)

[Previous comment](#)

The Committee notes the observations of the Jamaica Confederation of Trade Unions (JCTU) and the Jamaica Employers Federation (JEF) transmitted with the Government's report, which deal with issues examined by the Committee in this observation.

The Committee notes the Government's response regarding the observations of the International Trade Union Confederation (ITUC) received on 1 September 2015, which denounced fixed and unreasonable procedural requirements for, and limitations on, collective bargaining. In this respect, the Committee notes the Government's indication that it: (i) is examining the issues raised and will discuss them with the social partners at the Labour Advisory Council (LAC); and (ii) will provide an update to the Committee on the progress of the discussions. ***While welcoming the discussions planned with the social partners at the LAC, and taking into consideration that these issues have already been raised by the ITUC on different occasions and that some of them have been examined by the Committee, the Committee requests the Government to provide comprehensive information regarding the outcomes of the discussions and any actions taken in this regard.***

Article 4 of the Convention. Promotion of collective bargaining. Recognition of organizations for the purposes of collective bargaining. As expressed in its previous comment, the Committee has for many years, requested the Government to amend section 5(5) of the Labour Relations and Industrial Disputes Act (LRIDA) of 1975 and section 3(1)(d) of its regulations with a view to ensuring that the thresholds required for entering into collective bargaining do not constitute an obstacle to the promotion of free and voluntary collective bargaining. The Committee notes the Government's indication that legislation has not been amended to address the Committee's observations but that the legislation will be reviewed in the 2022–23 fiscal year. The Committee also takes note of the statistics provided by the Government as of August 2021, indicating that 14 collective bargaining agreements are in force and cover a total number of 1,335 workers in the sectors of aviation, banking, catering, energy, food and beverage, financial services, and manufacturing. The Committee considers that the very low coverage of collective agreements in the country could appear to be related to the restrictive requirements to engage in collective bargaining contained in section 5(5) of the LRIDA and section 3(1)(d) of its regulations. ***Recalling that this issue has been raised since 1990, the Committee deeply regrets the lack of progress***

and urges the Government to take the necessary measures in the very near future to amend its legislation in order to: (i) ensure that if no union reaches the required threshold to be recognized as a bargaining agent, unions are given the possibility to negotiate, jointly or separately, at least on behalf of their own members; (ii) recognize the right of any organization which in a previous ballot failed to secure a sufficiently large number of votes to request a new election after a stipulated period; and (iii) recognize the right of any new organization other than the previously certified organization to demand a new ballot after a reasonable period has elapsed. The Committee requests the Government to provide information on the developments in this regard.

Promotion of collective bargaining in the public sector. The Committee takes note of the observations of the JCTU regarding the adoption of negotiation protocols that have modified the modalities of collective bargaining in Government Ministries, Agencies, Departments and Parastatals. **The Committee requests the Government to provide further information on the implications of the new negotiation protocols in the promotion of collective bargaining in the public sector, including the number of collective agreements concluded in this sector and the number of workers covered.**

Application of the Convention in practice. **The Committee encourages the Government to continue to provide detailed information on the number of collective agreements concluded and in force, the sectors concerned and the number of workers covered by these agreements. Observing that collective bargaining can also take place through Joint Industrial Councils, which can set wages and working conditions applicable to entire industries, the Committee requests the Government to provide information on the agreements in force at the multi-employer and sectoral level. The Committee finally requests the Government to report on the measures taken, in accordance with Article 4 of the Convention, to promote collective bargaining at all levels.**

The Committee reminds the Government of the possibility to avail itself of the technical assistance of the Office.

Jordan

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1968)

Previous comment

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022 concerning matters examined in the present comment, including allegations concerning the persistence of anti-union measures against the Jordanian Teachers Association (JTA). **The Committee requests the Government to provide its comments in this respect.**

The Committee also notes that the Committee on Freedom of Association drew its attention to the legislative aspects of Case No. 3337 that relate to the Convention (Report No. 397, March 2022, paragraph 478). These matters are discussed below.

Articles 1 to 6 of the Convention. Scope of application of the Convention. Foreign workers. In its previous comments, the Committee had observed that the legal incapacity of foreign workers to establish or hold office in trade unions may constitute an obstacle to the autonomous exercise of their rights recognized by the Convention and had urged the Government to take the necessary measures, including legislative measures, to facilitate the full exercise by foreign workers of the rights recognized by the Convention. The Committee notes that the Government indicates in this regard that: (i) the Labour Code restricts the right to establish trade unions to Jordanians and according to the decision No. 1 of 2020 of the Constitutional Court, the Constitution prevails over international treaties and conventions; (ii) in 2021, 44 collective agreements, and in 2022, 33 collective agreements were concluded that cover, respectively 115,332 and 183,033 Jordanian and non-Jordanian workers. Regarding the hierarchy between the

Convention and the Jordanian Labour Code, the Committee notes that the text of the above-mentioned decision of the Constitutional Court emphasizes that domestic law shall not contradict international conventions ratified by the Kingdom, a position which is in line with the fundamental principles of international law. The Committee further notes that pursuant to section 98(f) of the Labour Code, foreign workers do not have the right to establish trade unions; pursuant to article 45 of the unified constitution of the recognized sectoral trade unions of 2020 they cannot be elected to the administrative board and; pursuant to section 7(a) of the Jordanian Teachers' Association Act No. 14 of 2011 (hereafter the JTA Act) they cannot join the JTA, while according to the information communicated by the Government, in 2021 the number of foreign workers in the education sector amounted to 929 persons. Regarding the right of foreign workers to collective bargaining in practice, the Committee notes that, according to the information communicated by the Government, in 2021 foreign workers with a work permit constituted 19.5 per cent of the total workforce. It also notes the Government's indications as to the aggregate number of workers, including foreign workers, covered by CBAs concluded in 2021 and 2022. It notes in this regard that according to the World Bank report Jobs Diagnostic Jordan (2020), non-Jordanians account for almost 36 per cent of total employment. The Jordanian labour market is highly segmented along the lines of nationality, with non-Jordanians disproportionately concentrated in informal and unskilled sectors. In 2016 almost all domestic workers, 70 per cent of agricultural workers and 60 per cent of construction workers were non-Jordanian. According to the 2022 Annual Report of Better Work Jordan (hereafter BWJ Report), foreign workers also make up 75 per cent of workforce in the garment industry. The Committee notes that in practice, with the exception of the garment sector, no significant collective bargaining has taken place in any of the above-mentioned sectors where foreign workers are highly represented. Domestic work and agriculture were not included in the list of sectors covered by the 17 recognized sectoral unions until July 2022 and according to the Jordanian Federation of Independent Trade Unions, in 2008 the Government refused to recognize an independent union of agricultural workers (Committee on Freedom of Association, Case No. 3337, Report No. 393, March 2021, paragraph 518). Regarding the construction sector, the Committee notes that according to the lists of collective agreements since 2015 published on the website of the Ministry of Labour (hereafter MOL), no large-scale collective bargaining has taken place in the sector in the 2015-2022 period, and the few collective agreements that were concluded covered only specific firms with a few hundred workers covered. Regarding the garment sector, the Committee notes that according to BWJ Report, the garment sector 2019 CBA featured the most inclusive process of any CBA to-date, as worker representatives from multiple different nationalities were consulted and key issues facing workers were addressed during negotiations. Nevertheless, this process has delivered a two-tier regulation of employment conditions in which less favourable terms apply to foreign workers. For instance, the minimum wage applicable to foreign workers is lower; furthermore, the unified contract for Jordanians provides for paid maternity leave and restricts the maximum daily overtime work, while the agreement covering foreign workers does not contain such provisions. In view of the foregoing, the Committee is bound to note that in practice, only in one of the sectors where foreign workers make up most of the workforce, their conditions of work are regulated by collective agreements. Therefore, the Committee notes with **concern** that the legal restrictions to the freedom of association of foreign workers, in addition to the dominant union monopoly, have strongly contributed to a situation where, in many sectors, they have no access to collective bargaining, while in some others, their bargaining power is being significantly constrained in practice. The Committee notes that, in view of the foreign workers' large share in the workforce, this issue significantly affects the exercise of freedom of association and the right to collective bargaining in the whole Jordanian economy. ***In view of the above, the Committee urges the Government to: (i) repeal sections 98(f)1 of the Labour Code and 7(a) of the JTA Act; and (ii) pending legislative reform, take all the necessary measures to promote collective bargaining in the sectors where foreign workers make up most of the workforce and encourage the existing unions to adopt an inclusive approach in which foreign workers' representatives participate in the process of***

collective bargaining and their demands and concerns are effectively taken into account. The Committee requests the Government to provide detailed information on the legislative and promotional measures taken in this respect, as well as information on changes in the scope and terms of agreements as they relate to foreign workers.

Agricultural and domestic workers. The Government indicates that the Regulation on agricultural workers was adopted by the House of Representatives on 14 March 2021, following a process that involved consultation with representatives of workers and employers and civil society organizations. The Committee notes that the Regulation contains rules on various aspects of agricultural work and applies to all workers including non-Jordanians. It notes with **interest** that section 16 of the Regulation refers to the Labour Code all aspects of labour relations that are not covered by the regulation, including the right of agricultural workers to freedom of association and collective bargaining. The Committee further notes the Government's indication that Decision No. 2022/45 of the Minister of Labour dated 18 July 2022, amending the Decision concerning the categories of industries and economic activities in which workers are allowed to establish unions, included agricultural workers in the professions that can join the union of food industries, which is henceforth called the General Union of Water, Agriculture and Food Industries Workers.

Regarding domestic workers, the Government confirms that section 3(b) of the Labour Code excludes them from the scope of the Code, and that their rights and obligations are set out in Regulation No. 90 of 2009, amended by Regulation No. 64 of 2020. However, the Committee notes with **concern** the Government's indication that as the Regulation does not contain a clause referring to the provisions of the Labour Code on matters not covered by it, domestic workers remain excluded from the provisions concerning freedom of association and collective bargaining. Nevertheless, the Government indicates that the above-mentioned Decision No. 2022/45 of the MOL has added domestic workers to the professional categories covered by the Union of General Services and Free Professions, which enables them to join this union. The Government adds that there are no statistical data available as to the number of domestic workers who joined this union. It finally indicates that the owners of agencies for the recruitment and employment of non-Jordanian domestic workers have established an association. The Committee notes that the ITUC confirms in its observations the inclusion of agricultural and domestic workers in the food and services sectors by ministerial decision. The Committee notes that the Ministerial decision No. 2022/45 has enabled agricultural and domestic workers to join the designated sectoral trade unions, which only allows these workers to exercise their right to organize and collectively bargain in the very restrictive framework of the existing system of trade union monopoly, from which they were previously excluded. ***In view of the above, and while taking due note of the first step taken through the Ministerial decision No. 2022/45, the Committee urges the Government to take the necessary measures to: (i) revise the Labour code or the Regulation on domestic work with a view to expressly recognising the right of domestic workers to organize and bargain collectively; (ii) encourage and promote collective bargaining in agriculture and domestic work sectors, and; (iii) provide information on any collective agreements concluded in these two sectors, and the number of workers covered by them. The Committee requests the Government to provide information on the measures taken.***

Workers aged between 16 and 18 years. In its previous comments, the Committee had noted that minors between 16 and 18 years of age have access to employment but are prohibited from joining trade unions and had requested the Government to revise the law so that these persons can enjoy their rights under the Convention. The Government indicates in this regard that the purpose of subjecting the right to establish and join unions to the attainment of age of 18, is to protect the workers' will and that amending section 98(f) would go against Jordanian civil law provisions concerning the age of majority and the capacity to exercise civil rights. The Government further indicates that the MOL has consulted the Jordanian Chamber of Commerce on this matter, which has expressed its agreement with the current age limit. ***The Committee once again urges the Government to take the necessary measures***

to amend sections 98(e)2 and 98(f) of the Labour Code, so as to ensure that minors who have reached the legal age for admission to employment, whether as workers or trainees, are fully protected in the exercise of their rights under the Convention. It requests the Government to provide information on the measures taken or envisaged in this respect.

Education sector workers. In its previous comment, the Committee had urged the Government to guarantee the right to organize and bargain collectively in the education sector; to ensure full respect of the independence of workers' organizations in the sector; and to provide information on the outcome of court proceedings involving the JTA and on any collective agreement or accord in the education sector, including with the JTA. The Committee notes that the Government indicates that the JTA was established through the enactment of a special law, the JTA Act and that it is not subject to the provisions of the Labour Code, and the MOL plays no part in the disputes related to it. The Committee also notes that the JTA Act does not contain any provision concerning collective bargaining or resolution of collective labour disputes. It further notes that the Government indicates that the General Union of Workers in Private Education (hereafter GUWPE) last concluded a collective agreement with the Organization of private school owners in 2019; but it does not refer to any collective agreement concluded by the JTA. However, the Committee notes that GUWPE covers only the private education sector, while the membership of JTA includes mainly public sector teachers. In view of the foregoing, and the absence of a regulatory framework for collective bargaining covering the JTA, the Committee is bound to note that despite the existence of a union they can join, public sector teachers, and those private sector teachers who choose affiliation to JTA, do not appear to enjoy the right to collective bargaining in law or in practice.

Regarding the proceedings involving the JTA, the Committee notes the observation of the ITUC reporting that the Amman Court of Appeal reversed the administrative decision to dissolve JTA, nevertheless, the organization was still impeded from operating and representing teachers in the country, as none of its board members were able to resume their trade union activities. It also notes the Government's indication that the JTA executive board was once dissolved by a judicial decision and currently, a case is pending before the Court of Cassation. The Government also refers to a pending penal case concerning JTA, involving charges of incitement to hatred, disturbing the order at an educational institution, and instigating an unlawful assembly. However, the Government does not indicate who is prosecuted in this case and which concrete acts led to the charges. It also notes the ITUC's observation, reporting that on 5 October 2021, the Jordanian security forces arrested and detained fourteen leading members of the JTA, who were peacefully demonstrating on the World Teachers' Day, denouncing the crackdown on trade union rights. In this regard, the committee emphasizes that arrest, detention and criminal prosecution of trade union members and leaders for trade union activities is a denial of freedom of association and consequently, of the right to collective bargaining; and that the State must guarantee a climate free from violence, pressure, and threats of any kind against the leaders and members of trade union organizations. It emphasizes that it is incumbent on the competent authorities to ensure that the measures taken against trade union members and officials were not occasioned by their trade union activity. ***In view of the above considerations and recalling that the Convention covers all teachers in both private and public sectors, the Committee urges the Government to take all the necessary measures, including legislative measures, to ensure that the right to collective bargaining of the JTA and all workers in the public and private education sector is explicitly recognized in law and effectively respected in practice. The Committee further requests the Government to provide information on the identity and trade union office of the prosecuted JTA members and the concrete acts that have entailed the charges against them, with a view to ensuring that their prosecution is not occasioned by their trade union activities. It also requests the Government to provide information on the outcome of all court proceedings involving the JTA.***

Workers not included in the 17 sectors recognized by the Government. In its previous comments, the Committee had noted that the number of sectors in which trade unions can be established is set at 17 and had urged the Government to ensure that no category of workers other than the exceptions in the Convention can be excluded from the exercise of the right to organize and bargain collectively. The Government indicates that the Ministry of Labour initiated the process of amendment of the previous Decision on classification of industries and economic activities in which establishment of unions is authorized following a decision of the Labour Relations Tripartite Committee defined in section 43 of the Labour Code, and the Minister issued decision 2022/45 dated 18 July 2022 pursuant to the recommendation of the Registrar of trade unions. The Committee notes the copy of the Ministerial Decision No. 2022/45 which contains the complete updated list of the industries and economic activities included under each of the 17 sectors of activity assigned to the recognized sectoral unions. The Committee also notes the statistics provided on the number of Jordanian and non-Jordanian workers disaggregated by economic sector, which do not however correspond to the classification of sectors in Decision 2022/45. The Committee notes that the most remarkable change brought by the new classification is the addition of agriculture and domestic work under food industries and services sectors/unions. With the information at its disposal, the Committee is not in the position to evaluate to what extent Decision 2022/45 covers the whole Jordanian economy or which sectors and economic activities may be left out. However, it notes that the principle embodied in section 98(d) of the Jordanian Labour Code, which provides for the existence of a closed list of industries and economic activities in which trade unions can be established, is incompatible with the principles set out in the Convention concerning the workers covered. It notes that until July 2022, the classification had excluded such large sectors as agriculture and domestic work, and that in view of the evolving nature of the economy and the continuous coming into existence of new activities, a closed list will inevitably have the effect of excluding entire categories of workers from the right to establish and join organizations and, therefore, from exercising the right to collective bargaining. ***Recalling that the Convention covers all workers, with the only possible exceptions of the armed forces, the police and the public servants engaged in the administration of the state, the Committee urges the Government to repeal section 98(d) of the Labour Code and to take the necessary measures to ensure that workers in all sectors of the economy can exercise their right to organize and freely bargain collectively through the organization of their choosing. It requests the Government to provide information on the measures taken in this respect.***

Article 2. Adequate protection against acts of interference. In its previous comment, the Committee had requested the Government to provide information on any progress on the adoption of the amendment to section 139 of the Labour Code and the penalties for interference by employers provided in the amended law. The Government indicates that the bill amending the Labour Code is presently before the House of Representatives and that in the amended section 139, the highest fines imposed on employers in case of breach of labour law have increased from JD100 to JD1,000, which amounts to US\$1,400. Recalling that the sanctions against acts of interference must be effective and sufficiently deterrent, the Committee notes that a fine of maximum JD1,000, which can neither be adjusted with inflation nor adapted on the basis of the size of the enterprise may not be sufficiently deterrent in the long term and in cases in which the interfering employer disposes of considerable financial resources. ***The Committee therefore requests the Government to revise the draft submitted to the parliament with a view to effectively strengthen the penalties for interference, so as to ensure that they are sufficiently dissuasive. It requests the Government to provide information on the measures taken in this respect.***

Articles 4 and 6. Right to collective bargaining. Trade union monopoly. In its previous comment, the Committee had recalled that the imposition of a trade union monopoly is incompatible with the principle of free and voluntary negotiation and had urged the Government to ensure that more than one trade union can be established in a sector and to permit the effective exercise of the free and voluntary negotiation. The Committee notes the Government's indication that the situation of trade union

monopoly and the refusal to register independent trade unions is based on sections 98(d) and 102(c) of the Labour Code as well as on the Decision on classification of industries and economic activities in which establishment of unions is authorized. The Government further indicates that, the refusal of the Registrar of Trade Unions and Employers' Associations to register any new trade union with the same aims and purposes as an existing trade union is to avoid rendering the sector vulnerable to fragmentation and conflict of interest. In the view of the Government, Jordanian law does not go against freedom to establish trade unions but regulates it in a way that is compatible with the provisions of the Jordanian Constitution and the United Nations Covenants on civil and political rights and economic, social and cultural rights. The Committee recalls in this regard that its function is to examine whether the requirements of Convention No. 98, ratified by the Kingdom of Jordan, are met in law and in practice; and in carrying out this work, it is guided by the standards laid down in the Convention alone. The Committee notes that according to the observations of the ITUC, no new trade union has been established since 1976. Furthermore, decision 2022/45 does not allow the establishment of any new union, but only recomposes the sectors covered by pre-established unions, by adding to them several previously excluded activities (notably, agriculture and domestic work) or by shifting an activity from the competence of one sectoral union to another.

In view of the above, recalling that the right of workers to free and voluntary collective bargaining should include the right to be represented in collective bargaining by the organization of their choice, the Committee urges the Government to take all the necessary measures to remove obstacles to trade union pluralism in law and in practice, including by repealing section 98(d) of the Labour Code and the Decision on the classification of industries and economic activities where trade unions may be established (Ministerial Decision No. 2022/45) so as to ensure that all workers can fully exercise their right to free and voluntary collective bargaining.

Collective bargaining in the public sector. In its previous comment, the Committee had trusted that the Government measures would contribute positively to the adoption of legislation or regulations explicitly recognizing the right to collective bargaining in the public sector. In this regard, the Committee notes the ITUC observation that the law still prohibits public sector workers from exercising the right to collective bargaining. ***The Committee requests the Government to provide its comments in this respect.*** The Committee notes on the other hand the Government's indication that the Labour Code (section 3) excludes public employees from its scope. Nevertheless, the Government emphasizes that all Jordanian workers, whether they work in public or private sector, have a constitutional right to organize within legal limits. The Government has also transmitted a ruling of the Constitutional Court (interpretative opinion No. 6 of 2013), stating that public sector employees including civil servants have the right to establish unions within the framework of the law, to be set by the constitutionally competent authorities, namely the Council of Ministers and the King. The Committee notes that the Constitutional Court has referred to ILO Conventions Nos 87, 98 and 151 as the international legal foundations of the right to organize in public sector and has stated that on the basis of these instruments, the establishment of an "organization of public employees" that would benefit from all the necessary facilities can be envisaged whose purpose would be to define and defend the interests of the workers in the sector. The Committee had noted in its previous comment that the Civil Service Regulation No. 9 of 2020 does not contain a framework for collective bargaining, and the Government does not indicate any legislative novelty in this regard. In view of the above, the Committee notes that in Jordan, the exercise of the right to collective bargaining in the public sector is still not possible in the absence of a legal framework that would expressly recognize this right and regulate its exercise. ***Considering that according to the information submitted by the Government, in 2021, public sector employees constituted 38.8 per cent of employed Jordanian nationals, the Committee urges the Government to take the necessary measures, for example, by revising the Civil Service Regulation No. 9 of 2020, or by extending the scope of the Labour Code, to ensure that all public sector workers not engaged in the administration of the State have an effective framework in which they may engage in collective negotiations over their***

working and employment conditions through the trade union of their choice. The Committee requests the Government to provide information on the steps taken in this regard. It further requests the Government to provide information on any existing public service trade unions besides the JTA and the regulatory texts governing their establishment and functioning.

[The Government is asked to reply in full to the present comments in 2023.]

Workers' Representatives Convention, 1971 (No. 135) (ratification: 1979)

Previous comment

Article 2 of the Convention. Facilities for workers' representatives in the undertaking. In its previous comment, the Committee had noted that pursuant to section 107 of the Labour Code, the Tripartite Committee for Labour Affairs (TCLA) is the competent body for setting down the necessary conditions enabling trade union representatives to carry out their duties and had requested the Government to provide information on the content and outcome of the consultations held by the TCLA on this matter. The Government indicates in this regard that the Ministry of Labour nominated a committee made of representatives of the General Federation of Trade Unions, and the Jordanian Chambers of Industry and Commerce with the task of defining the principles and criteria governing the granting of time off for union activities. On 9 April 2017, this committee issued a set of recommendations to be submitted to the TCLA for decision on this matter. The TCLA has held regular meetings since then, however, the proposed principles and criteria have not yet been submitted to it for consideration and approval. The Committee notes with **concern** that the government does not report any progress in the application of *Article 2* of the Convention in law and in practice. It once again recalls in this regard that the Workers' Representatives Recommendation, 1971 (No. 143), lists examples of facilities to be afforded to workers' representatives, which include time off from work to attend trade union meetings, congresses, etc.; access to all workplaces in the undertaking, where necessary; access to the management of the undertaking, as may be necessary; distribution to workers of publications and other written documents of the union; access to such material facilities and information as may be necessary to carry out their duties. ***The Committee firmly hopes that the proposed principles and criteria on granting time off for union activities will be submitted to the TCLA soon and requests the Government to take all the necessary measures to ensure that an adequate regulatory framework, guaranteeing that workers' representatives are granted all the facilities enabling them to carry out their functions promptly and efficiently is submitted to tripartite consultation and approval. It requests the Government to continue providing information on any developments in this regard.***

[The Government is asked to reply in full to the present comments in 2023.]

Kazakhstan

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2000)

Previous comment

The Committee notes the observations of the International Organisation of Employers (IOE), of the Sectoral Trade Union of Workers in the Fuel and Energy Complex (Sectoral Trade Union of TEK Workers), and of the International Trade Union Confederation (ITUC), received respectively on 25 August, 30 August and 1 September 2022, referring to the issues raised by the Committee below.

The Committee notes the report of the Direct Contacts Mission (DCM) which visited the country in May 2022 following a request to that effect made by the Committee on the Application of Standards (the Conference Committee) at its 109th Session (June 2021).

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

The Committee notes the discussion that took place in the Conference Committee in June 2022 concerning the application of the Convention. The Committee observes that the Conference Committee urged the Government, in consultation with the social partners, to: (i) ensure that the allegations of violence against trade union members are thoroughly investigated, notably in the case of Mr Senyavsky; (ii) allow an independent investigation of the Zhanaozen events of 2011; (iii) stop practices of judicial harassment of trade union leaders and members conducting lawful trade union activities and drop all unjustified charges, including the ban preventing trade unionists from holding any position in a public or non-governmental organization; (iv) resolve the issue of registration of KSPRK and the Industrial Union of Employees of the Fuel and Energy Sector, so as to allow them to enjoy the full autonomy and independence of a free and independent workers' organization, to fulfil their mandate and to represent their constituents without further delay; (v) engage with the free and independent employers' and workers' organizations to review issues concerning their registration in law and practice with a view to overcoming existing obstacles; (vi) review the composition of the permanent working group that assesses areas of concern involving the registration of trade unions, so as to ensure the full involvement of independent workers' and employers' organizations in this working group; (vii) refrain from showing preference towards a particular trade union and stop the interference in the establishment and functioning of trade union organizations; (viii) remove any existing obstacles in law and practice to the operation of free and independent employers' organizations in the country; (ix) remove any existing obstacles in law and practice to the operation of free and independent employers' and workers' organizations in the country, in particular repeal provisions in the Law on the National Chamber of Entrepreneurs (NCE) on accreditation of employers' organizations with the NCE; (x) ensure that workers' and employers' organizations are not prevented from receiving financial or other assistance by international workers' and employers' organizations, and extend the list in Ordinance No. 177 of 9 April 2018 to cover international workers' and employers' organizations, such as the ITUC and IOE; and (xi) fully implement the 2018 road map. The Conference Committee requested the Government to develop, in consultation with the social partners, a time-bound action plan in order to implement all these conclusions. In order to elaborate, implement and evaluate this action plan, it urged the Government to avail itself of technical assistance from the Office on an ongoing basis in this regard.

The Committee welcomes the Plan of Action elaborated with the participation of the social partners pursuant to the request made by the Conference Committee. ***The Committee expects that all measures to give effect to the recommendations of the ILO supervisory bodies, as outlined below, will be taken within the indicated time frames.***

The Committee recalls that, while Mr Baltabay and Ms Kharkova, former trade union leaders, have served their respective sentences (after they have been found guilty of the alleged misappropriation of funds), they remained prevented from holding a trade union office. The Committee notes the Government's indication that this restriction expires, with regard to Ms Kharkova, in November 2022, and in case of Mr Baltabay, in 2026. The Committee further notes that the DCM had discussed with the Human Right Commissioner the possibility that courts might impose an additional punishment in the form of a ban on holding a public office (including trade union leadership posts) or a prohibition to engage in "public activities" provided for by the Criminal Code. The Commissioner considered that this would appear to be in violation of basic civil liberties and human rights. The Prosecutor General's Office (PGO) explained to the DCM that the relevant sections of the Criminal Code leave it to the appreciation of the courts as to whether such an additional penalty should be imposed, the time period and conditions. The legislation did not outline any precise criteria in this respect. The PGO pointed out that the Ministry of Labour and Social Protection of the Population (MLSPP) could submit to it a legislative initiative aimed at amending the relevant sections of the Criminal Code. The Committee notes that according to the above-mentioned Plan of Action, the responsible State bodies are to submit to the PGO

working group their suggestions for the amendment of the criminal legislation before the end of 2022. ***The Committee requests the Government to provide information on all developments in this regard.***

The Committee recalls that it had previously noted that no progress has been made in investigating the assault on Mr Senyavsky, a former trade union leader, and urged the Government to investigate the matter without delay and to bring the perpetrators to justice. The Government reiterates that while the investigation has been suspended for lack of evidence, if new circumstances come to light, Mr Senyavsky will be informed. The Committee further notes that the Plan of Action provides for steps to be taken with a view to finding the perpetrators before the end of 2022. ***The Committee urges the Government to intensify its efforts in investigating the incident with a view to bringing to justice those responsible for the assault, and to report on all developments in this regard.***

The Committee notes the ITUC allegation that judicial harassment of trade union leaders continues in the country; the ITUC refers in this respect to the arrest and administrative detention in October and December 2021 of two trade union leaders, Mr Zhenis Orynaliev and Ms Saule Seidakhmetova, in connection with their participation in a strike action. ***The Committee requests the Government to provide its comments thereon.***

The Committee notes the Government's detailed reply to the Conference Committee's request to allow an independent investigation of the Zhanaozen events of 2011. The Committee understands from the information contained in the Government's report that the circumstances of those 2011 events, which the Government refers to as riots, have been investigated and that various outside observers agreed on the transparency of both pre-trial procedures and trial processes. The Government indicates that criminal proceedings against 11 defendants who had called for mass unrest were discontinued at the preliminary investigation stage due to an amnesty, and that among those organizers of riots brought to trial, 13 received prison sentences, 16 received suspended sentences, three were acquitted and five were released following amnesty. The Government further indicates that following inquiries into 16 complaints of unlawful methods of investigation, a decision was taken not to initiate any criminal proceedings. The Committee observes with **concern** that the Government does not reply to the statements made by several speakers during the discussions at the Conference Committee alleging the deaths of 17 strikers and injuries to more than 100 others following the extremely violent repression of strike action in Zhanaozen. The speakers, as well as the ITUC in its latest observations, alleged that the violence ended a seven-month long peaceful strike involving more than 3,000 workers demanding a wage increase. The Committee points out that it is against this background that the Conference Committee urged the Government to allow an independent investigation to take place. This Committee considers that the maintenance of a climate of impunity for the perpetrators of such violence is extremely harmful and constitutes a major obstacle to the free exercise of freedom of association in the country. ***The Committee therefore urges the Government to take all necessary steps, in consultation with the social partners, to establish an independent investigation into the 2011 events in Zhanaozen, with a view to elucidating all facts and determining responsibilities so that healing and reconciliation can begin to take place. The Committee requests the Government to inform it of all measures taken in this regard.***

Article 2 of the Convention. Right to establish organizations without previous authorization. The Committee had previously requested the Government to take all necessary steps to resolve the issue of registration of the Congress of Free Trade Unions (KSPRK) and of the affiliate organizations of the Sectoral Trade Union of TEK Workers, so as to allow them to enjoy the full autonomy and independence of a free and independent workers' organization, to fulfil their mandate and to represent their constituents without further delay. The Committee further requested the Government to continue engaging with the social partners to review the difficulties identified by trade unions seeking registration with a view to finding appropriate measures, including legislative, to give full effect to *Article 2* of the Convention and to ensure the right of workers to establish organizations without previous authorization. The Committee notes the Government's indication that to date (and since November

2019), no application for state registration has been submitted by the KSPRK. In this respect, the Committee notes from the DCM report that, with the exception of the Sectoral Trade Union of TEK Workers, there is no other union that the KSPRK could immediately affiliate to be granted registration at the republican level. In this connection, the Committee notes the Government's indication that applications for the registration of the affiliates of the Sectoral Trade Union of TEK Workers in Atyrau and Almaty were turned down on five and two occasions, respectively, and that the shortcomings have been explained to the unions concerned. The Government indicates that once these are addressed, the unions can re-apply for registration.

The Committee notes that the DCM raised the issue of registration of trade unions in the oil sector in all its meetings with State bodies. While the Commissioner for Human Rights alluded to the fact that the oil sector was of national security importance, other responsible Ministries, as well as the Deputy Prime Minister, indicated that the only reason for the denial of registration was failure to respect legislative requirements set out for the registration of trade unions, despite the explanations provided during a workshop organized in March 2021 to assist the union in understanding the procedures. The DCM noted, however, that the requests for registration of these trade unions were systematically refused on the basis of technicalities, which could have been easily remedied on the spot at the registration office instead of a refusal followed by another one-month long application process, and further noted that with each refusal the registering authority referred to a wholly new inconsistency with the legislation, i.e. one to which it did not refer to in its previous motivated refusal. The impossibility to register the two trade union structures precludes the Sectoral Trade Union of TEK Workers from confirming its status. The Committee notes the Government's indication that under the Plan of Action, the composition of the working group set up to consider problems encountered in the registration procedure will be reviewed. ***Expressing deep concern at this course of events, the Committee urges the Government to take additional steps to resolve the issue of registration of the affiliates of the Sectoral Trade Union of TEK Workers so as to allow them to enjoy the full autonomy and independence of a free and independent workers' organization, to fulfil their mandate and to represent their constituents without further delay. The Committee requests the Government to inform it of all developments in this regard.***

Further in this connection, the Committee notes from the DCM report that with the recent decision to establish additional regions in the country, a requirement to have affiliated organizations and/or structures in over 50 per cent of the regions/cities of regional importance/capital, as currently provided for the establishment of a sectoral trade union, appeared to be too high and needed to be reduced, in particular, when a sector or industry covers only a few regions, such as oil sector, for example. The Committee notes that according to the Sectoral Trade Union of TEK Workers, in the new circumstances, it will be more difficult, if not impossible, for it to confirm its sectoral status. The Committee notes that the national Commissioner for Human Rights considered that the Law on Trade Unions should be amended in this regard so as to represent the reality of certain sectors. ***The Committee requests the Government to amend the Law on Trade Unions accordingly so as to ensure that the establishment of sectoral trade unions is not impeded. The Committee requests the Government to inform it of all measures taken in this respect.***

The Committee further notes from the DCM report a proposal to amend the national legislation in order to simplify registration by replacing it with a notification procedure for trade unions wishing to acquire a legal personality or allowing trade unions to function without registering and thus without obtaining legal personality. The draft amendments were to be developed by the end of 2022 for adoption in the first quarter of 2023. ***Welcoming this information, the Committee requests the Government to provide information on developments in this regard, including a copy of the amendments once adopted.***

Following up on conclusions of the 2021 Committee on the Application of Standards, this Committee had previously encouraged the Government to continue reviewing the application of the

Law on the National Chamber of Entrepreneurs (NCE) in practice to ensure that its provisions on accreditation of employers' organizations with the NCE did not hinder the exercise of the right of employers' organizations to organize their administration and activities and to formulate their programmes. The Committee notes from the DCM report that the role of employers' organizations was not always understood by all State actors and needed to be clarified with a view to ensuring that participation in social dialogue, and in particular in collective bargaining, was a prerogative of employers' organizations. The DCM further noted that the accreditation system was voluntary; that the Confederation of Employers was not accredited with the NCE; and that the former did not consider that the accreditation or the lack thereof restricted its rights. The Committee notes the Government's indication that the idea of a separate law on employers' organizations is being considered as a means of improving social partnership and dialogue and enforcing employers' organizations' rights under the Convention. ***The Committee welcomes this information and requests the Government to report on all developments in this regard.***

Article 3. Right of organizations to organize their activities and to formulate their programmes. The Committee recalls that it had previously requested the Government to amend section 402 of the Criminal Code (2016), according to which an incitement to continue a strike declared illegal by the court was punishable by arrest for the duration of up to 50 days and in certain cases (substantial damage to rights and interest of citizens, mass riots, etc.) up to two years of imprisonment. ***In the absence of any further specific information in this regard, the Committee once again requests the Government to provide information on all steps taken or envisaged in order to review section 402 of the Criminal Code so as to ensure that simply calling for a strike action, even one declared illegal by the courts, does not result in detention or imprisonment.***

Article 5. Right of organizations to receive financial assistance from international organizations of workers and employers. The Committee had previously noted the Government's reference to its Ordinance No. 177 of 9 April 2018 "On the adoption of a list of international and state organizations, foreign and Kazakhstani non-governmental organizations and funds which can provide grants", which determined 98 international organizations allowed to provide grants to physical and legal persons in Kazakhstan. The Committee trusted that the list contained in the Ordinance would be amended to include international workers' and employers' organizations. The Committee notes that as per the Plan of Action, this issue is to be examined before the end of 2022. ***The Committee expects that necessary measures will be taken without delay to ensure that workers' and employers' organizations are not prevented from receiving financial or other assistance from international workers' and employers' organizations. The Committee requests the Government to provide information on all developments in this regard.***

Lebanon

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1977)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations of the General Confederation of Lebanese Workers (CGTL), communicated with the Government's report. The Committee observes that the Government has not replied to the observations made by the International Trade Union Confederation (ITUC) in 2010, alleging that the law imposes a high threshold on representative organizations for engaging in collective bargaining, as well as imposing the requirement of obtaining the agreement of two-thirds of the union membership at a general meeting to validate a collective agreement. ***The Committee once again requests the Government to send its comments concerning the observations made in 2010 by the ITUC.***

With regard to the observations submitted by Education International (EI) in 2015 and 2016 concerning the situation of public and private educational staff and the wage freeze since 1996, the Committee notes that: (i) through the adoption of Decree No. 63 in 2008, teachers in the public and private sectors have had a wage increase; (ii) in 2013, following a wage increase in the private sector, public sector employees, including teachers, were granted an advance on their salary; and (iii) Act No. 26, published in the Official Gazette of 21 August 2017, also provides for a wage increase for teachers in the public and private sectors. **The Committee requests the Government to indicate whether these wage increases are the result of collective bargaining.**

Scope of application of the Convention. Domestic workers. In its previous comments, the Committee observed that the Government had not replied to the observations made by the ITUC concerning the exclusion of domestic workers from the Labour Code. The Committee observes that “domestic workers who work for private households” are excluded from the scope of application of the Labour Code of 1946 (section 7(1)), and that the contractual relationships between domestic workers and the individuals who employ them to perform domestic work in their households are governed by the Act on obligations and contracts. Moreover, the Committee notes that, in its concluding observations of 2018, the United Nations Human Rights Committee expressed concern that migrant domestic workers are excluded from protection under domestic labour law and are subjected to abuse and exploitation under the sponsorship (*kafala*) system. It also expressed concern about the lack of effective remedies against such abuses and the existence of anti-union reprisals (CCPR/C/LBN/CO/3). **The Committee requests the Government to provide clarification in this respect, by indicating the manner in which domestic workers and migrant domestic workers can enjoy the protection of the Convention, including the right to engage in collective bargaining through the organization of their own choosing, and to indicate whether consideration is being given to amending the above-mentioned provision of the Labour Code. The Committee also requests the Government to indicate how these rights are exercised in practice, by indicating the names of any organizations that represent domestic workers and migrant domestic workers and the number of collective agreements covering them.**

Legislative amendments

Articles 4 and 6 of the Convention. Promotion of collective bargaining. The Committee recalls that, in the comments that it has been repeating for many years, it has been emphasizing the need to revise a number of provisions of the Labour Code in force and to reword certain provisions on collective bargaining in the draft Labour Code communicated by the Government in 2004.

Excessive restrictions on the right to collective bargaining. In its previous comments, the Committee noted that section 3 of Decree No. 17386/64 required trade unions to obtain the support of at least 60 per cent of the Lebanese employees concerned in order for a collective agreement negotiation to be considered valid, and considered this threshold to be excessive. The Committee also noted that section 180 of the draft Labour Code provided for the reduction of the threshold to 50 per cent and reminded the Government that such a solution could nevertheless pose problems of compatibility with the Convention, as it would prevent a representative union without an absolute majority from being able to engage in bargaining. It therefore asked the Government to ensure that if no union represents the required percentage of workers to be declared the exclusive bargaining agent, collective bargaining rights are granted to all the unions in the unit, at least on behalf of their own members.

Right to collective bargaining in the public sector and the public service. In its previous comments, the Committee asked the Government to amend its legislation so that public sector workers not engaged in the administration of the State, governed by Decree No. 5883 of 1994, are able to enjoy the right to collective bargaining. In this regard, the Committee noted that section 131 of the draft Labour Code established that workers in the public administration, municipalities and public enterprises responsible for administering public services on behalf of the State or on their own account would have to right to engage in collective bargaining.

Compulsory arbitration. For many years, the Committee has been asking the Government to take measures so that recourse to arbitration in the three public sector enterprises governed by Decree No. 2952 of 20 October 1965 is only at the request of both parties. The Committee also requested the amendment of section 224 of the draft Labour Code, which provides that, should mediation fail, any dispute in the case of the three public sector enterprises governed by Decree No. 2952 will be settled by an arbitration board. The Committee notes with **regret** the Government’s indication that Decree No. 2952 has been replaced by Decree

No. 13896 of 3 January 2005, and that now all investment enterprises in the private and public sectors which are responsible for managing public services on behalf of the State or on their own account must resort to compulsory arbitration should negotiations fail. The Committee recalls that compulsory arbitration is generally not compatible with the promotion of free and voluntary collective bargaining required by *Article 4* of the Convention and therefore that compulsory arbitration in the context of collective bargaining is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential services in the strict sense of the term (services the interruption of which would endanger the life, personal safety or health of the whole or part of the population) and in the event of an acute national crisis. **Noting with regret that the Government has been merely indicating, for over a decade, that the draft Labour Code is under examination and that due account will be taken of the Committee's comments, and that the Labour Code in force continues to contain provisions that are not compatible with the Convention, the Committee urges the Government to take the necessary legislative measures to amend the Labour Code in force so as to guarantee the collective bargaining rights of workers, including domestic workers. The Committee reminds the Government that it may avail itself of technical assistance from the Office in this regard.**

Collective bargaining in practice. The Committee requests the Government to provide statistics on the number of collective agreements concluded and in force and to indicate the sectors and number of workers covered.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Liberia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1962)

Previous comment

The Committee takes note of the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022, referring to issues addressed by the Committee below. It also takes note of the observations of the International Organisation of Employers (IOE) received on 25 August 2022, which reiterate the comments made in the discussion that took place in the Conference Committee on the Application of Standards (hereinafter the Conference Committee) in June 2022 on the application of the Convention by Liberia.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

The Committee notes the discussion that took place in the Conference Committee in June 2022 concerning the application of the Convention. The Committee notes that the Conference Committee urged the Government to: (i) ensure that all workers are able to exercise their labour rights under the Convention in an environment of respect for civil liberties, including freedom of association, freedom of expression, peaceful assembly and protest without interference and fear for their personal safety and bodily integrity; (ii) ensure that trade union leaders and members are not jailed for engaging in trade union activities and that threats against trade union leaders for their activities are fully investigated and the perpetrators duly punished; (iii) enact measures, including dissuasive sanctions, to ensure that trade unions can only be dissolved by a judicial authority, only as a last resort for serious violations of law; (iv) resolve the registration of the National Health Workers' Union of Liberia (NAHWUL) as a trade union organization without further delay and provide additional information on any pending allegations; (v) review the Decent Work Act and any other related legislation to ensure that all workers, including foreign workers, are able to exercise the right to form or join a trade union of their choice; and (vi) ensure that public sector workers enjoy the protection of the freedom of association rights under

the Convention. The Conference Committee invited the Government to avail itself of technical assistance from the Office.

The Committee had previously requested the Government to provide its comments on the observations made by the African Regional Organization of the International Trade Union Confederation (ITUC – Africa) denouncing the dissolution of a trade union by a state-owned company; the use of police force to break up peaceful strikes; and the arrest of union leaders and wrongful dismissal of workers for their participation in strike actions. The Committee notes the Government's indication that it cannot validate those observations, as the Ministry of Labour has not received a complaint from any individual or institution. The Government indicates it will provide its comments once institutional or individual complaints reach the Ministry. The Committee recalls that it is the responsibility of the Government to ensure the application of the Convention which it has ratified and in this respect, emphasizes the importance for the Government to investigate the allegations of violations of trade unions rights, including those brought by international organizations of workers to the Committee, with the view to providing the Committee with a full and accurate reply. ***The Committee urges the Government to conduct an independent investigation into the ITUC allegations without further delay and to provide information on the outcome.***

The Committee had also previously requested the Government to provide information on the allegations raised by the NAHWUL concerning the Government's failure to grant it legal recognition, as well as infringements of the right to strike. The Committee notes the Government's indication that it is currently working with the relevant stakeholders to harmonize the Decent Work Act and the Civil Servant Standing orders to ensure full legal recognition of the NAHWUL. The Government indicates it does not have any additional information to provide with regard to the other allegations raised by the NAHWUL. The Committee notes that according to the ITUC's most recent observations, while the Government has given functional acceptance to the NAHWUL, it continues to deny legal recognition. The Committee further notes the ITUC allegation of the Government's increasing intolerance of workers exercising their civil liberties and rights under the Convention. The ITUC reports, in particular, that the General Secretary of the NAHWUL alleged state surveillance of his activities and threats against his life. ***The Committee urges the Government to take all necessary measures to grant the NAHWUL full legal recognition through the harmonization of the Decent Work Act and Civil Servant Standing orders and requests the Government to provide information on all developments in this respect. The Committee further requests the Government to provide its comments on the allegations of the ITUC pertaining to the exercise of civil liberties and labour rights. In this respect, with reference to the conclusions of the Conference Committee, this Committee urges the Government to provide information on all measures taken in consultation with the social partners to ensure that: (i) all workers are able to exercise their labour rights under the Convention in an environment of respect for civil liberties, including freedom of association, freedom of expression, peaceful assembly and protest without interference and fear for their personal safety and bodily integrity; and (ii) trade union leaders and members are not jailed for engaging in trade union activities and that threats against trade union leaders for their activities are fully investigated and the perpetrators duly punished.***

Scope of application. In its previous comment, the Committee had requested the Government to provide specific information on developments regarding the creation of a framework for the harmonization of the Decent Work Act and the Civil Service Standing orders, and to detail what legal provisions ensure that public sector workers enjoy the rights set out in the Convention. The Committee notes the ITUC's allegations that a recent court ruling has decided that associations of public servants are not subject to the Decent Work Act. ***The Committee requests the Government to provide further information on all developments with regard to the creation of a framework to harmonize the Decent Work Act and the Civil Service Standing orders, and to ensure that public sector workers enjoy the rights set out in the Convention.***

The Committee had previously noted that section 1.5(c)(i) and (ii) of the Decent Work Act excludes from its scope of application, officers, members of the crew and any other persons employed or in training on vessels. The Committee had therefore requested the Government to indicate how the rights enshrined in the Convention are ensured to maritime workers, including trainees, and to indicate any laws or regulations adopted or envisaged covering this category of workers. The Committee notes with **deep regret** the lack of information in this respect. **The Committee reiterates its request and expects that the Government's next report will contain information in this regard.**

Article 1 of the Convention. Right of workers, without distinction whatsoever, to establish organizations. The Committee had previously requested the Government to take any necessary measures, including through the amendment of section 45.6 of the Decent Work Act, to ensure that the right to establish organizations to defend their occupational interests is fully recognized to foreign workers both in law and in practice. The Committee notes the Government's indication that the Ministry of Labour has opened discussion with the existing foreign workers' bodies to distinguish or form a separate body for employers and employees so that their respective organizations can have the sole rights to defend their occupational interests. **The Committee requests the Government to provide information on all developments and outcomes of the engagement with foreign workers bodies' and the Ministry of Labour.**

Article 3. Determination of essential services. The Committee had previously requested the Government to continue to provide information on any developments with regard to the designation of essential services by the National Tripartite Council and how such designation operates in practice, as well as to clarify whether the President is also bound by the definition of the notion of essential services set out in section 41.4(a) of the Decent Work Act (services the interruption of which would endanger the life, personal safety or health of the whole or any part of the population of Liberia), and to provide information on any presidential decisions concerning the designation of essential services and how such designation operates in practice. **Noting with regret that no information has been provided by the Government in this respect, the Committee reiterates its previous request.**

Madagascar

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

Previous comment

The Committee notes the observations of the General Confederation of Workers' Unions of Madagascar (FISEMA), received on 1 September 2022, which refer to the issues examined in the present comment.

The Committee also notes the observations of the Randrana Sendikaly Alliance, received on 19 October 2022, alleging the arrest and sentencing to a 12-month prison term and a fine of 400,000 ariarys (about US\$92) of Mr Zotiakobanjina Fanja Marcel Sento, a leader of the trade union Trade unionism and life of societies (SVS Etoile), for having posted on Facebook the results of meetings held with the management of an enterprise in the textile sector in the performance of his trade union duties. **The Committee requests the Government to provide its comments on these serious allegations.**

The Committee notes that the Government has not responded to the 2021 observations of the Autonomous Trade Union of Labour Inspectors (SAIT) alleging the violation of the right of trade unions to organize their activities in line with *Article 3* of the Convention. **The Committee once again requests the Government to provide its comments in this regard.**

In its previous comments, the Committee noted the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA) containing allegations of restrictions on the right to organize, and

especially the right of trade unions to organize their management and training activities, and also on the difficulties encountered in establishing trade unions. The Committee notes that the Government, in response to these allegations, indicates that freedom of association is protected under section 136 et seq. of the Labour Code and that Decree No. 2011-490 and its implementing order No. 28968-2011 provide for the promotion of trade union rights in the country. ***Recalling the Government's responsibility to ensure that the rights provided for in the Convention are respected both in law and in practice, the Committee requests the Government to provide information on the measures taken to ensure the implementation of the above-mentioned provisions in practice.***

Restrictions on trade union activities in the maritime sector. The Committee previously urged the Government to ensure that the independent inquiry being conducted into anti-union acts in the maritime sector was concluded as soon as possible. The Committee notes the Government's indication that the Ministry of Transport and Meteorology is organizing a meeting with the General Maritime Union of Madagascar (SYGMMA) with a view to ending the conflict between the union and an enterprise in the maritime sector. ***Noting the Government's brief reference to the above-mentioned inquiry, the Committee requests the Government to clarify whether the meeting with SYGMMA has been concluded and, if so, to provide detailed information on its outcome. The Committee also requests the Government to provide detailed information on the outcome of any meeting organized by the Ministry of Transport and Meteorology concerning allegations of anti-union acts in the maritime sector.***

Article 2 of the Convention. Workers governed by the Maritime Code. In its previous comments, the Committee noted that a new Maritime Code was to be adopted and requested the Government to ensure that the Code provided for the right of seafarers to establish and join trade unions. The Committee notes the Government's indications that the fundamental rights and freedoms of seafarers were taken into account in the preparation of the draft Maritime Code, which is currently in the process of adoption. ***The Committee expects that the new Maritime Code will be adopted soon and will contain specific provisions providing for the right of seafarers to form and join trade unions. The Committee requests the Government to provide information on any developments in this regard and to transmit a copy of the Maritime Code once adopted.***

Article 3. Representativeness of workers' and employers' organizations. The Committee previously noted the adoption of Decree No. 2011-490 on workers' organizations and representativeness, which provides for the holding of elections for staff delegates at the enterprise level, and requested the Government to provide information on any progress made in such elections and their impact on the determination of the employers' and workers' organizations that participate in dialogue at the national level. The Committee notes the Government's indication that it is left to the workers and employers to organize the elections for staff representatives and to forward the results to the Ministry of Labour and Social Legislation, the role of which is limited to issuing a decree confirming that representativeness has been established. In this regard, the Government indicates that the Order No. 34-2015, issued on 19 February 2015, is in a state of tacit renewal since certain factors prevent the organization of new elections. The Committee also notes that FISEMA, in its observations, alleges that in 2019, when appointing workers' representatives to the boards of directors and management committees of the National Social Insurance Fund (CNAPS), the Antananarivo Inter-Enterprise Health Organization (OSTIE) and the Inter-Enterprise Medical Association of Antananarivo (AMIT), the Ministry of Labour and Social Legislation unilaterally changed the names of the representatives who were to sit on the boards and committees. FISEMA says it has filed a complaint with the Council of State, which issued three rulings in its favour in 2021 and 2022. ***The Committee requests the Government to provide specific information on the factors that have prevented the holding of elections for staff representatives since 2015. Furthermore, recalling the importance of avoiding interference by public authorities in the determination of the representativeness of professional organizations, the Committee requests the Government to provide its comments on the serious allegations of FISEMA.***

Right of workers' organizations to organize their activities and formulate their programmes. Compulsory arbitration. The Committee previously requested the Government to amend sections 220 and 225 of the Labour Code, which provide that if mediation fails, the collective dispute is referred by the Ministry of Labour and Social Legislation to a process of arbitration and that the arbitral award ends the dispute and the strike, as well as section 228 of the Labour Code which provides for the possibility of requisitioning striking employees in the event of disruption of public order. The Committee notes with **regret** that the Government merely indicates that prolonged disputes and strikes cause difficulties for society, workers and the economy, and provides information about the composition and functioning of its arbitration board. The Committee recalls that compulsory arbitration in the context of a collective labour dispute and the requisition of workers in the case of a strike are only acceptable when the strike in question may be restricted, or even prohibited, namely in the case of public servants exercising authority in the name of the State, in essential services in the strict sense of the term, or in situations of acute national crisis (2012 General Survey on the fundamental Conventions, paragraphs 151 and 153). **Recalling that the above-mentioned issues have been the subject of its comments for several years, the Committee urges the Government to take the necessary measures to amend sections 220, 225 and 228 of the Labour Code in the near future. The Committee requests the Government to provide information on any developments in this regard, and reminds it that it may avail itself of the technical assistance of the Office, if it so wishes.**

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1998)

Previous comment

The Committee notes the observations of the Randrana Sendikaly Alliance, received on 19 October 2022, which are addressed in the framework of the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

The Committee also notes that the Government has not responded to the 2021 observations of the Autonomous Trade Union of Labour Inspectors (SAIT) alleging anti-union discrimination measures against its members. **The Committee once again requests the Government to provide its comments in this respect.**

In its previous comments, the Committee noted the Government's response to the 2015 and 2017 observations of the International Trade Union Confederation (ITUC) and the Christian Confederation of Malagasy Trade Unions (SEKRIMA) alleging acts of anti-union discrimination in various sectors and, emphasizing the persistence of the alleged situation, the Committee requested the Government to continue to provide information in this regard. **Noting with regret that the Government has not provided the requested information, the Committee reiterates its request that the Government ensure that all the events reported are the subject of investigation by the public authorities and, if acts of anti-union discrimination have been committed, they will give rise to full compensation for the damage suffered and to the imposition of penalties that constitute an effective deterrent.**

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. The Committee previously requested the Government to provide information on the number of cases of anti-union discrimination examined by the labour inspection services and labour courts, and on the corresponding penalties actually applied by these institutions. The Committee notes the Government's indication that the labour inspection services categorize cases of anti-union discrimination as labour relations infringements and it does not know the exact number of anti-union discrimination cases examined by the regional labour services and the labour courts. **Recalling the fundamental importance of ensuring effective protection against anti-union discrimination, the Committee requests the Government to take the necessary measures to gather the requested information on the number of**

cases of anti-union discrimination examined by the labour inspection services and the labour courts, as well as the penalties imposed in those cases.

Articles 1, 2, 4 and 6. Public servants not engaged in the administration of the State. In its previous comments, the Committee had underlined the need to adopt formal provisions clearly recognizing the protection of all public servants and public sector employees not engaged in the administration of the State against acts of anti-union discrimination and interference and their right to bargain collectively their conditions of employment. The Committee notes the Government's indications that it is currently working on the draft General Statute on Public Servants and the draft General Statute on contractual public employees, which generally provide for equal treatment of civil servants and contractual public employees. ***The Committee expects that the above-mentioned draft legislation will be adopted in the near future and will contain provisions providing for protection against anti-union discrimination and interference and the right to collective bargaining for all civil servants and public sector employees not engaged in the administration of the State, in accordance with the Convention. The Committee requests the Government to provide information on the progress made in this respect, and recalls that it may avail itself of the technical assistance of the Office, if it so desires.***

Article 4. Promotion of collective bargaining. Collective bargaining in sectors subject to privatization. The Committee had previously noted the information provided by the Government on the situation of collective agreements in the energy sector, particularly that of the Malagasy Electricity and Water Company (JIRAMA), the revision of which is reportedly in progress, and the observations of SEKRIMA alleging that privatizations have resulted in the collective agreements in force being discarded. The Committee had therefore requested the Government to take the necessary steps to promote the full use of collective bargaining mechanisms in privatized sectors. The Committee notes that the Government merely indicates that the revision of the JIRAMA collective agreement can be transferred to the competent court. ***The Committee reiterates its request that the Government take all the necessary steps to promote the full use by the parties concerned of collective bargaining mechanisms in privatized sectors, including the energy sector, and requests the Government to provide information on any progress made in this regard.***

Collective bargaining for seafarers. In its previous comments, the Committee had noted that the Labour Code excluded maritime workers from its scope of application and had expressed the expectation that the Government would be able to report shortly the adoption of the new Maritime Code that was due in May 2018; and that the Code would recognize for these workers the rights enshrined in the Convention. The Committee notes that the Government merely indicates that it has drawn up the draft Maritime Code. The Committee also notes that, according to the Government's report on the Collective Bargaining Convention, 1981 (No. 154), a draft new Labour Code is currently pending adoption. ***Recalling that the Government has been referring to the draft Maritime Code since 2008, the Committee urges the Government to take the necessary measures to ensure, in the context of the reforms underway, that national legislation contains provisions giving full effect to the Convention in respect of maritime workers. The Committee requests the Government to provide information on any developments in this respect, as well as a copy of the draft Maritime Code and the draft new Labour Code.***

Promotion of collective bargaining in practice. The Committee previously requested the Government to provide information on collective bargaining in practice. ***Noting that the Government has not provided the requested information, the Committee once again asks the Government to provide information in the measures taken to promote collective bargaining and to indicate the number of collective agreements concluded in the country, the sectors concerned and the number of workers covered by these agreements.***

In view of the ratification by Madagascar of Convention No. 154 in 2019, the Committee expects that the Government will take concrete measures to promote collective bargaining as requested in the different sections of this comment.

Malaysia

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

(ratification: 1961)

Previous comment

The Committee notes the observations of the National Union Bank Employees (NUBE) received on 1 September 2022 alleging the violation of trade union rights through the implementation of unilateral restructuring schemes, collective bargaining in bad faith, harassment of trade union members and denial of facilities by an enterprise in the banking sector, among other allegations. ***The Committee requests the Government to provide its comments in this respect.***

The Committee also notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2022 concerning the issues examined by the Committee, and the Government's replies thereon.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

The Committee notes the discussion which took place in June 2022 in the Conference Committee on the Application of Standards (the Conference Committee) concerning the application of the Convention by Malaysia. The Committee notes that the Conference Committee noted with interest the amendments to the Industrial Relations Act 1967 (IRA) and the Employment Act 1955 (Employment Act), in 2021 and 2022 respectively and the prevailing concern regarding ongoing challenges in relation to the exercise of the collective bargaining rights, trade union discrimination and interference. The Committee observes that the Conference Committee requested the Government to: (i) amend without delay national legislation, specifically the Employment Act, the Trade Unions Act 1959 (TUA), and the IRA, in consultation with the social partners, to bring these laws into conformity with the Convention; (ii) ensure that the procedure for trade union recognition is simplified and that effective protection against undue interference is adopted; (iii) ensure that migrant workers can fully participate in collective bargaining, including by enabling them to run for trade union office; (iv) enable collective bargaining machinery in the public sector to ensure that public sector workers may enjoy their right to collective bargaining; (v) ensure, in law and practice, adequate protection against anti-union discrimination, including through effective and expeditious access to courts, adequate compensation and the imposition of sufficiently dissuasive sanctions. The Conference Committee also requested the Government to: (i) submit a report to the Committee of Experts by 1 September 2022 with information on the application of the Convention in law and practice, in consultation with the social partners; and (ii) continue to avail itself of the technical assistance of the ILO.

Ongoing legislative reform. The Committee notes the Government's statement that the Employment Act was amended in 2022, and that the TUA, under the process to be amended at the Parliament, has been discussed with the social partners in 12 sessions held in August 2022. The Committee welcomes the Government's indication that it will continue working closely with the Office through the Labour Law and Industrial Relations Reform project, and the social partners, including the Malaysian Trades Union Congress (MTUC) and the Malaysian Employers Federation (MEF), to ensure adequate protection against anti-union discrimination. The Committee notes that the Government avails itself of the technical assistance of the ILO to facilitate the review of the Trade Union Act and to

contribute to achieving its full conformity with the Convention. ***The Committee requests the Government to provide information on any developments in this regard.***

Article 1 of the Convention. Adequate protection against anti-union discrimination. Effective remedies and sufficiently dissuasive sanctions. The Committee notes the Government's confirmation that section 8 of the IRA provides for procedures for non-criminal acts, while section 59 is related to semi-criminal cases. The Committee notes the Government's indication that remedies for anti-union discrimination under sections 8 and 20 of the IRA are awarded by the Industrial Court based on the facts and merits of each case, and acting on the basis of equity, good faith and the substantial merits of the case. The Committee notes the Government's indication that victims of anti-union discrimination may file complaints to the Director-General of Industrial Relations to start an inquiry, conciliate or investigate the complaints. The Committee observes that it is in the discretion of the Director-General to refer or not the complaint to the Industrial Court, without the worker having the right to access the courts directly, and there is no information regarding on what basis the decision to dismiss a complaint without referring it would be made. The Committee notes that at the discussion held at the Conference Committee, the Government indicated that the reforms to the IRA aim to enhance the existing dispute resolution system, as well as to enable any disputes arising to be resolved effectively, and expedite the procedures involved. However, the Committee notes the Government's indication regarding the duration and number of procedures on cases on anti-union discrimination that: (i) from January 2021 until April 2022, 35 cases were filed (section 8 of the IRA), and 31 have been resolved by the Industrial Relations Department with an average duration of the proceedings from three to six months; and (ii) cases referred by the Director-General of Industrial relations to the Industrial Court should be resolved within 12 months. The Committee notes with **concern** the ITUC's observations according to which the remedies applied in cases of anti-union discrimination are inadequate because they usually consist of compensation in lieu of reinstatement and processes can last over two years. The Committee notes with **regret** that the Government does not provide information on the actual number of cases and duration of the proceedings before the Industrial Court nor on the sanctions applied and measures of compensation awarded for anti-union discrimination acts. The Committee observes that the Committee on Freedom of Association also examined the issue of effective protection against acts of anti-union discrimination in its Case No. 3409 and referred the legislative aspect of this case to it (399th Report, June 2022, paragraphs 227 and 229). ***Recalling that effective protection against acts of anti-union discrimination requires rapid and impartial procedures and remedies, as well as sufficiently dissuasive sanctions, the Committee urges the Government to take the necessary measures to ensure that workers who are victims of anti-union discrimination have the right to directly lodge a complaint before the courts and that such proceedings are rapid and effective and to ensure an effective protection through reinstatement, adequate compensation, and the imposition of sufficiently dissuasive sanctions. The Committee also recalls its recommendation to consider the reversal of the burden of proof once a prima facie case is made. The Committee further requests the Government to provide detailed information on: (i) the number of complaints filed, the duration of the proceedings, the remedies, and the sanctions and measures of compensation effectively imposed for acts of anti-union discrimination in accordance with the IRA; and (ii) the criteria followed by the Director-General of Industrial Relations to determine the actions to take in the treatment of anti-union discrimination cases, including to refer or not the matter to the courts.***

Articles 2 and 4. Trade union recognition for purposes of collective bargaining. Criteria and procedure for recognition. The Committee had observed that in case of an employer's refusal to grant recognition to a union: (i) the Director-General shall ascertain the scope of membership of the trade union on the date of the claim, whether it is in accordance with the union's constitution; and (ii) by way of secret ballot, the Director-General, shall ascertain the percentage of workers, in respect of whom recognition is being sought, who indicate support for the trade union making the claim. The Committee had requested the Government to provide detailed information on the steps taken to ensure safeguards against employer

interference during the recognition process. The Committee notes with **regret** that no detailed information has been provided by the Government in this regard. It notes, however, the Government's indication at the Conference Committee that to safeguard against employers' interference, sections 4, 5 and 8 of the IRA, are applied. The Committee observes that the IRA entered into partial effect on January 2021 and understands from the Government's statement that several provisions including section 12A (exclusive bargaining agent) of the IRA will only enter into force upon amendment of the TUA. The Committee notes the initial Government's statement that the actual impact of the amendments on the secret balloting process for trade union recognition, has not been visible due to COVID-19 restrictions. The Committee further notes the Government's reply to the ITUC observations regarding the simplification of processes for trade union recognition, indicating that: (i) Malaysia entered the endemic phase of COVID-19 on 1 April 2022, and since then the secret ballot process has been conducted as per the amendment to the IRA; (ii) as of October 2022, 78 secret ballot processes have been conducted (78 employers and 26,521 employees involved); and, (iii) from 1 January to 31 October 2022, 261 cases have been reported regarding recognition with an average duration from one to six months for resolution (for voluntary recognition processes duration of resolution is about one month. For other cases legal intervention extends the duration of the process). The Committee notes however that the information provided does not specify the number of recognitions that were granted to trade unions. ***Taking due note of the Government's indication regarding the implementation of the recognition procedures, envisaged by the amended provisions in the IRA, and recalling that these processes should provide safeguards to prevent acts of employer interference, the Committee requests the Government to continue to provide detailed information on the application in practice of these measures, including the number of processes for trade union recognition, the duration of these processes, and the outcomes (number of recognitions granted). The Committee further requests the Government to provide detailed information on the steps taken to ensure that safeguards against employer interference are applied in the process of application of sections 4, 5 and 8 of the IRA, including the specific measures in practice and sanctions applied when these cases occur.***

Exclusive bargaining agent. The Committee notes that: (i) where more than one trade union has been accorded recognition, the exclusive bargaining agent will be determined among themselves; (ii) if there is no agreement by the workers or group of workers, the exclusive bargaining agent, the employer or trade union of employers or any trade union concerned, may make an application in writing so that the exclusive bargaining agent is ascertained by the Director-General of Industrial Relations by way of a secret ballot through the highest number of votes (section 12A of the IRA); and (iii) section 12A of the IRA is yet to be enforced and is subject to the amendment of the TUA, which is still pending. The Committee notes that the Government reiterates that a simple majority is a minimum requirement that shall be maintained, which has been also agreed by the social partners. The Committee had observed however that the IRA does not make reference to the simple majority threshold indicated by the Government for the determination of the exclusive bargaining agent. ***The Committee expresses the firm hope that the provisions related to the recognition of the exclusive bargaining agent will enter into force without delay (section 12A of the Industrial Relations Act), following the entering into force of the Trade Union Act that is still undergoing the process of amendment. The Committee requests the Government to provide information on all the developments in this regard.***

Rights of minority unions. The Committee notes with **regret** that the Government does not provide information on the measures taken or envisaged to ensure that, in situations, where no union is declared the exclusive bargaining agent, collective bargaining can still be exercised by the existing unions. ***The Committee is therefore bound to request once again the Government to specify the measures taken or envisaged, in light of the reforms of the Industrial Relations Act and the forthcoming amendments to the Trade Union Act, to ensure that, in situations where no union is declared the exclusive bargaining agent, all unions in the unit are able to negotiate, jointly or separately, at least on behalf of their own members.***

Duration of recognition proceedings. The Committee notes the Government's indication that the average duration of the recognition process is of four to nine months, and that the decision on recognition from the Director-General of Industrial Relations may be appealed for judicial review. In this respect, the Committee recalls that the average duration of the recognition procedure, must be "reasonable", and that an average duration of nine months is excessively long (2012 General Survey on the fundamental Conventions, paragraph 232). ***The Committee urges the Government to take the necessary measures to ensure that the duration of the recognition process is reasonable, and to provide information on the measures adopted in this respect.***

Migrant workers. The Committee welcomes the Government's indication at the Conference Committee that: (i) foreign workers are eligible to become members of a trade union and are eligible to hold office upon approval of the Minister if it is in the interest of such union; (ii) the IRA does not impose restrictions on migrant workers to engage in collective bargaining; and (iii) as of 2022 a total of 27,964 foreign workers are members of 16 registered trade unions (increasing from 2,874 workers in 2019). The Committee takes note, however, of the Government's reply to the ITUC's observations that the referred Minister's approval only acts as a security measure to make sure the election is transparent and fair. The Committee observes that this condition may hinder the right of trade unions to freely choose their representatives for collective bargaining purposes. It notes that the Committee on Freedom of Association also examined this issue and invited the Government to provide information on any legislative development in this regard to the Committee of Experts (Case No. 2637, 397th Report, March 2022, paragraph 32). ***The Committee therefore requests the Government to take, in consultation with the social partners, the necessary legislative measures to ensure that foreign workers are able to run for trade union office without prior authorization. The Committee further requests the Government to take the necessary measures to ensure the full utilization of collective bargaining by migrant workers and to provide information in this respect.***

Scope of collective bargaining. The Committee notes the Government's indication reiterating that: (i) section 13(3) (restrictions on "internal management prerogatives"– promotions, transfers, appointment of workers in case of vacancies, termination of services due to redundancy, dismissal, reinstatement and assignment or allocation of work) shall be retained to maintain industrial harmony and speed up the collective bargaining process; (ii) the provision is not compulsory as if both parties agree, they may negotiate on those subject matters; and (iii) trade unions can raise questions of a general character relating to transfers, termination of services due to redundancy, dismissal, reinstatement and assignment or allocation of work. The Committee notes with **concern** the ITUC's observations indicating that while workers are allowed to raise general questions, the provisions also allow employers to dismiss those questions. The Committee observes that it remains unclear how questions of a general character relating to matters that are within the scope of legislative restrictions on collective bargaining can be raised in practice. The Committee further observes that the Committee on Freedom of Association also examined the issue of raising general questions and the scope of collective bargaining and referred the legislative aspect of the case to this Committee (Case No. 3401, 397th Report, March 2022, paragraphs 499 and 502). ***The Committee therefore requests the Government, once again, to indicate the practical implications of the amendment of section 13(3) of the Industrial Relations Act on the scope of collective bargaining, in particular to clarify the meaning of the new wording – questions of a general character and the way in which these questions are raised and dealt with in practice. The Committee requests the Government to provide information on the number of collective agreements that include "internal management prerogatives" as negotiated subjects. The Committee reiterates its invitation to the Government to consider lifting the broad legislative restrictions on the scope of collective bargaining, so as to promote the right to bargain freely between the parties, without any intervention by the Government.***

Compulsory arbitration. The Committee had noted with interest that the amendments to the IRA restrict compulsory arbitration to instances generally compatible with the Convention. However, it had

also noted that the reference in section 26(2) to “any Government service” and “the service of any statutory authority”, as well as the reference to a number of Government services in point 8 of the First Schedule, may go beyond what can be considered as public servants engaged in the administration of the State. Furthermore, point 10 of the First Schedule, qualifies as essential services businesses and industries connected with the defence and security of the country, while they should be afforded the full guarantees of the Convention. The Committee notes the Government’s indication that the IRA amendments will be enforced after the TUA’s amendment is completed. **The Committee trusts that the amendments will enter into force without delay, once the legislative process for the Trade Union Act amendments, noted above, is completed. The Committee requests the Government to provide information on the amendments and measures taken or envisaged, in consultation with the social partners, to: (i) further delimit the categories of Government services in section 26(2) and point 8 of the First Schedule, so as to ensure that compulsory arbitration may only be imposed on those public servants engaged in the administration of the State; and (ii) remove businesses and industries mentioned in point 10 of the First Schedule from its scope of application.**

Restrictions on collective bargaining in the public sector. The Committee has for many years requested the Government to take the necessary measures to ensure for public servants not engaged in the administration of the State the right to bargain collectively over wages and remuneration and other working conditions and emphasized that simple consultations with unions of public servants not engaged in the administration of the State did not meet the requirements of *Article 4* of the Convention. The Committee notes the ITUC’s observations indicating that public servants are only consulted and not integrated in processes of collective bargaining. The Committee notes the Government’s indication that: (i) to ensure the welfare of public servants and collective bargaining there is engagement between employers and employees in the public sector; (ii) the Public Service Department has provided a platform through the National Joint Council (NJC) (which is inclusive of all public servants) and the Departmental Joint Council (DJC) to ensure that the welfare of public servants is heard; (iii) the NJC, as a form of joint consultation, is required to convene once a year to discuss proposals and matters on remuneration and service principles, innovation and productivity initiatives, and other amendments proposed to existing policies; and (iv) the DJC meets three times a year, and provides a means for public servants to communicate with management and express their opinions and views. The Committee observes that: (i) the Government submits the Service Circular No. 6/2020 and Service Circular No. 7/2020 (in Malay), related to the functioning of the National Joint Council and the Departmental Joint Council; (ii) the Councils appear to have a consultative status as opposed to being used as a platform for collective negotiation on issues relating to terms and conditions of employment of public servants. The Committee notes with **regret** that the Government does not provide information on collective bargaining and agreements concluded in the public sector. **The Committee, therefore, requests the Government to: (i) provide further information regarding how the different Councils ensure the right to collective bargaining, and not only consultation rights, in conformity with Article 4 of the Convention; and (ii) provide information on collective bargaining undertaken in the public sector, including the number of agreements concluded and the number of workers covered by those agreements.**

Collective bargaining in practice. The Committee had requested the Government to provide statistical information in relation to collective bargaining in the country. The Committee observes with **regret** that the Government refers to statistical information that is not provided. The Committee also notes that the Government made reference, at the Conference Committee, to progressive efforts to enhance the procedure and process on the right to strike and collective bargaining with the social partners. The Committee observes that no specific measures are further indicated by the Government. The Committee also notes the concerns expressed by the ITUC as to the low percentage of workers covered by collective agreements (1 to 2 per cent) and the declining level of trade union density (6 per cent). The Committee notes with **concern** the very low coverage of collective bargaining, indicated by

the ITUC, and observes that according to public statistics available in ILOSTAT as of 2018, the collective bargaining coverage rate in Malaysia was of 0.4 per cent. The Committee considers that this very low coverage could be related to the restrictive requirements in law and practice to engage in collective bargaining discussed above. ***The Committee therefore requests the Government to take the necessary action to remove all the legal and practical obstacles to collective bargaining addressed in this comment and to take concrete measures to promote the full development and utilization of collective bargaining. The Committee further requests the Government to provide updated statistical information on the number of collective agreements concluded and in force, the sectors concerned, and the number of workers covered by these agreements, as well as on any additional measures undertaken under the Convention.***

The Committee is raising other matters in a request addressed directly to the Government.

Myanmar

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1955)

The Committee notes the decision adopted by the Governing Body at its 344th Session in March 2022, to establish a Commission of Inquiry in respect of the non-observance of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Forced Labour Convention, 1930 (No. 29) in Myanmar. In these circumstances, and in accordance with the usual practice of suspending the operation of the other supervisory mechanisms during the mandate of the Commission of Inquiry, the Committee will resume its examination of the application of the Convention by Myanmar once the Commission of Inquiry has completed its mandate.

Namibia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1995)

Previous comment

Article 2 of the Convention. Right to organize of prison staff. The Committee recalls that it had previously noted that section 2(2)(d) of the Labour Act excluded members of the Namibian prison service from the Labour Act's provisions unless the Prisons Service Act provided otherwise. The Committee had further noted that the Prisons Service Act did not provide for the extension of the new Labour Act's guarantees to the Namibian prison service; nor did it contain any provisions establishing their freedom of association rights. The Committee requested the Government to provide information on the legislative amendments adopted to ensure that prison staff have the right to establish and join organizations for furthering and defending their interests. The Committee notes the Government's indication that the final report of the Tripartite Task Force proposes the deletion of section 2(2)(d) of the Labour Act and that the final report would be submitted to the minister before December 2021. ***The Committee requests the Government to take all necessary steps to expedite the process for adoption of legislative amendments to ensure that the prison services enjoy the guarantees under the Convention without further delay. The Committee once again requests the Government to provide information on any progress in this regard.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1995)

Previous comment

The Committee takes note of the Government's reply to the observations of the International Trade Union Confederation (ITUC) received on 1 September 2017, alleging violations of the Convention in specific enterprises and public institutions.

Articles 1 and 4 of the Convention. Adequate protection against anti-union discrimination and promotion of collective bargaining in export processing zones (EPZs). The Committee previously requested the Government to indicate the concrete measures taken to prohibit anti-union discrimination and promote collective bargaining in EPZs and to provide statistics in this respect. The Committee notes that the Government limits itself to indicating that no complaints alleging anti-union discrimination in EPZs were referred to the Office of the Labour Commissioner (administrative authority). **Recalling that the Convention fully applies to EPZs, the Committee requests the Government once again to take specific action to ensure the application of Articles 1 and 4 of the Convention in EPZs and to provide relevant information and statistics on any progress in this regard.**

Article 6. Rights of prison staff. The Committee, in its previous observation, expressed its expectation and firm hope that the Government would ensure that prison staff enjoy the rights enshrined in the Convention. The Committee welcomes the Government's indication that the Tripartite Task Force, responsible for the review of the Labour Act, intends, in order to ensure the conformity of the Act with the Convention, to delete section 2(d) that excludes the prison service from its scope of application. **The Committee hopes that the proposed amendment will be adopted soon, and that it will ensure the right of prison staff to enjoy the guarantees under the Convention. The Committee requests the Government to provide information on any progress in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

Nepal

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1996)

Previous comment

Article 1 of the Convention. Adequate protection against anti-union discrimination. In its previous comments, the Committee had requested the Government to take the necessary measures to introduce in the legislation an explicit prohibition of all acts of anti-union discrimination and effective and sufficiently dissuasive sanctions in cases of violation of this prohibition. The Committee notes that the Government indicates that workers are protected against anti-union discrimination as per section 6 of the Labour Act, 2017 and section 6 of the Right to Employment Act, 2018, respectively prohibiting discriminatory treatment during employment and in relation to hiring on the grounds of religion, colour, sex, caste, tribe, origin, language or other similar grounds and that the list should be considered as non-exhaustive hence indirectly encompassing also trade union activities as one of the grounds. In addition, as per section 23(A) of the Trade Union Act, 1992, office-bearers of the working committee of trade unions at the enterprise level shall not be transferred or promoted without their consent, except in special situations. While taking due note of the elements provided by the Government, the Committee recalls that the prohibition of discrimination provided for under section 6 of the Labour Act, as well as section 6 of the Right to Employment Act and section 24 of the Constitution of 2015, do not contain an explicit prohibition of discrimination against workers by reason of their trade union membership or participation in trade union activities. **In view of the above, the Committee once again requests the**

Government to take the necessary measures to introduce in the legislation: (i) an explicit prohibition of all prejudicial acts committed against workers by reason of their trade union membership or participation in trade union activities at the time of recruitment, during employment or at the time of dismissal (for example, transfers, demotions, refusal of training, dismissals, etc.); and (ii) effective and sufficiently dissuasive sanctions in cases of violation of this prohibition. The Committee requests the Government to provide information on any progress made thereon. It further requests the Government to provide information on the number of cases of anti-union discrimination dealt with by the competent authorities, the length of the proceedings and their final outcome.

Article 2. Adequate protection against acts of interference. In its previous comments, the Committee requested the Government to continue to provide statistics on the number of complaints on acts of interference examined and the duration of the procedures with a particular emphasis on the sanctions applied. The Committee notes that the Government, after having recalled the provisions of the Labour Act prohibiting acts of interference, indicates that during the reporting period no case of interference has been reported or brought to its attention. **The Committee requests the Government to continue to provide information on the number of complaints, with particular emphasis on the sanctions applied in cases of acts of interference.**

Article 4. Promotion of collective bargaining. Negotiation with trade unions versus negotiation with workers' representatives. In order to fully evaluate the conformity of section 116.1 of the Labour Act with the Convention, the Committee had requested the Government to specify the conditions under which trade unions are authorized to bargain collectively and to provide information on the number of direct agreements concluded with non-unionized workers in comparison with the number of collective agreements signed with trade unions. The Committee notes that the Government indicates that section 116.1 of the Labour Act provides that any enterprise employing ten or more workers shall have a collective bargaining committee and that such a committee is comprised of: (i) a team of representatives appointed for negotiation on behalf of the elected authorized trade union of the enterprise (paragraph a); (ii) where an election for the authorized trade union could not be held or the term of the elected authorized trade union has expired, a team of representatives nominated through a mutual agreement of all the unions in the enterprise (paragraph b); or (iii) where an authorized trade union or a team of representatives could not be formed, a team of representatives supported with the signatures of more than 60 per cent of the workers working in the enterprise (paragraph c). **Recalling that negotiation with non-union actors should only be possible in the absence of trade union organizations at the relevant level, the Committee requests the Government to provide information on how paragraphs (a), (b) and (c) of section 116.1 find application in practice. In particular, the Committee requests the Government to clarify which circumstances might impede the election of the authorized trade union and as a result the exercise of its functions to appoint the team of negotiating representatives.**

Furthermore, the Committee notes that the Government failed to provide data on collective agreements registered in the Labour Office, for the period 2018–22, with the number of workers covered. **The Committee therefore requests the Government to provide information in this respect and to specify the number of direct agreements concluded with non-unionized workers in comparison with the number of collective agreements signed with trade unions, indicating the sectors and the number of workers covered.**

Different levels of collective bargaining. In its previous comments the Committee requested the Government to take the necessary measures to amend section 123 of the Labour Act, providing a special regulatory regime for collective bargaining in a range of specific sectors. The Committee recalls that section 123 states that “trade union associations which are active in the tea estate, carpet sector, construction business, labour provider, transportation sector or any other group of manufacturers producing similar nature of goods or service providers providing similar nature of service or business” may form a collective bargaining committee and “submit collective bargaining claims, demands to the

employers' association of the concerned group of industries". Section 123(3) additionally states that "In the case of the enterprise to which the collective agreement referred to in this section is applicable, no collective claims, Demands and agreement may be submitted and made pursuant to this Chapter". The Committee notes that no information has been provided by the Government in this respect. The Committee wishes to remind that collective bargaining should be promoted at all levels, including both at company and sectoral levels, and that, at the same time, according to the principle of free and voluntary collective bargaining, the determination of the bargaining level is essentially a matter to be left to the discretion of the parties and, consequently, the level of negotiation should not be imposed by law. **While welcoming the fact that the different provisions of the Labour Act envisage both collective bargaining at the enterprise and sectoral levels, the Committee invites the Government to provide information on how section 123(3) would allow for sectoral collective bargaining to be compatible with collective bargaining at any level whatsoever, including that of the establishment, the undertaking, the branch of activity, the industry or the regional or national levels. Furthermore, as no other reference to sectoral collective bargaining is found in the Labour Act other than the one made in section 123(1), the Committee requests the Government to provide information on the rationale behind the selection of sectors enlisted in section 123 as well as on the number of sectoral collective bargaining agreements concluded in the series of targeted sectors and in sectors others than those mentioned therein, so to assess the breadth of sectoral collective bargaining in the country.**

Compulsory arbitration. In its previous comments, the Committee requested the Government to bring the provisions under section 119 of the Labour Act relating to compulsory arbitration into full conformity with the Convention, recalling that compulsory arbitration to end a collective labour dispute is acceptable only: (i) in the public service involving public servants engaged in the administration of the State (*Article 6* of the Convention); (ii) in essential services in the strict sense of the term, namely those services whose interruption would endanger the life, personal safety or health of the whole or part of the population; or (iii) in case of acute national crisis. **Noting that the Government did not provide any information in this respect, the Committee once again requests that the Government take the necessary measures to ensure that, in accordance with the Convention, compulsory arbitration can only take place in the situations mentioned above. The Committee requests the Government to provide information on any progress in this respect.**

Composition of arbitration bodies. In its previous comments, the Committee requested the Government to provide detailed information with respect to the composition of the arbitration panel (under section 119(3) of the Labour Act) and tribunal (section 120) and specifically to indicate the procedure undertaken to select the worker and employer representatives to ensure the full independence of these arbitration bodies. It also requested the Government to clarify the difference between the arbitration panel and the arbitration tribunal. The Committee notes that, in its report, the Government uses interchangeably the names of the two arbitration bodies and does not provide further information regarding the procedure undertaken to ensure their full independence. **The Committee therefore requests the Government to provide information clarifying how the arbitration panel and tribunal differ from one another and how the procedure for selection of the members of the arbitration tribunal will be determined so as to ensure its full independence.**

The Committee reminds the Government that it may avail itself of the technical assistance of the Office with respect to all issues raised in the present observation.

Netherlands

Sint Maarten

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Previous comment

The Committee takes note of the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022, which refer to matters under examination by the Committee and allege that the widespread use of temporary contracts by employers constitutes a significant limitation to the right to organize, as contract workers are not allowed to participate in referendums for the creation of trade unions. **The Committee requests the Government to provide its comments thereon.**

The Committee further notes the observations of the Sint Maarten Employers Council (ECSM), received on 6 September 2022 and referring to matters addressed below.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2022 concerning the application of the Convention. The Committee observes that the Conference Committee urged the Government, in consultation with the social partners, to: (i) refrain from any undue interference in the exercise of freedom of association of employers and workers, including any interference through the promotion of organizations that are not freely established or chosen by workers and employers, such as the Soualiga Employer Association (SEA); (ii) consult worker and employer organizations with a view to identifying their representatives in the Socio Economic Council (SER); (iii) provide information on the outcome of the appeal challenging the appointments of the Employers' representatives to the SER; and (iv) bring national legislation into line with the Convention to ensure that all workers, including public sector workers, are able to fully exercise the rights and guarantees under the Convention. The Conference Committee also invited the Government to avail itself of technical assistance from the Office to bring the national law and practice into conformity with the Convention. Finally, the Conference Committee requested the Government to submit a report to the Committee of Experts by 1 September 2022 providing information on the application of the Convention in law and practice, in consultation with the social partners.

Article 3 of the Convention. Right of organizations to elect their representatives in full freedom. In its previous comments, the Committee had requested the Government to review the establishment of the SEA, which had been facilitated by a governmental agency, as well as its operation and its participation in the SER, and redress any interference from the public authorities in this regard. The Committee notes that the Government indicates, with respect to the appeal referred to in the Conference Committee conclusions, that the Court of Appeals issued a judgement dated 29 June 2022, in which it determined that the right to freedom of association of the ECSM had not been violated, and that both the ECSM and the SEA had been independently designated as representative employers' organizations, as the involvement of the Minister of General Affairs and the Chamber of Commerce and Industry (COCI) in the establishment of the SEA did not disqualify the latter as a representative organization. The Committee notes with **regret** that the Government states that as a result of this judgment, it intends to proceed with the establishment of the SEA as an umbrella employers' organization and the appointments of the employers' representatives to the SER will therefore remain effective until 30 April 2023. The Government also indicates, however, that it would be open to receiving technical assistance from the Office in this regard. The Committee once again recalls that, under the Convention, public authorities should refrain from any undue interference in the exercise of the rights of employers and

their organizations to determine the conditions for electing their representatives and to establish higher level organizations. It further recalls that the Conference Committee urged the Government to refrain from any undue interference in the exercise of freedom of association of employers and workers, including any interference through the promotion of organizations such as the SEA, which is not considered to be an independent employer organization, as it was established by the COCI, an organization with compulsory membership. In this regard, the Committee also recalls that the Conference Committee urged the Government to consult worker and employer organizations with a view to identifying their representatives in the SER. The Committee further notes with **deep regret** the information from the ECSM that the Government, contrary to the CAS conclusions, apparently has recognized one seat on the SER to the SEA while the other two seats are suspended and that the SER has apparently not been convened since the CAS, nor has the ECSM been consulted on matters affecting its interest, including the preparation of the Government's report. **The Committee therefore urges the Government to take the necessary measures, in consultation with the social partners, to ensure that workers' and employers' representatives to the SER are only appointed by organizations which are freely established or chosen by workers and employers and to engage with the ECSM on matters affecting its interests. Observing that there appears to be some confusion around the basic precepts of freedom of association relative to this matter, the Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.**

Right of workers' organizations to organize their administration and activities. The Committee had previously requested the Government to confirm whether section 374(a), (b) and (c) of the old Penal Code of the Netherlands Antilles, which prohibited public employees, including teachers, from striking under penalty of imprisonment, had been carried over into the new Penal Code, and to specify any other legislative provisions currently governing the right to strike of civil servants. The Committee notes the Government's indication that: (i) the Penal Code was amended in 2015 to revoke certain provisions, including section 374*bis*, *ter* and *quater*, which were in violation of the Convention; (ii) the right to strike of civil servants is governed by the Constitution, the Civil Code, the National Ordinance on Collective Agreements, the National Collective Labour Dispute Ordinance and the cohesive Labour Peace Decrees, as well as article 6(4) of the European Social Charter, as the Supreme Court of the Netherlands determined that this provision was applicable in the country; and (iii) the National Ordinance on Substantive Civil Service Law was amended to allow the courts to forbid strikes which threaten public welfare or safety. The Committee further notes that the ITUC, in its observations, states that it is unclear whether section 374(a), (b) and (c) of the old Penal Code of the Netherlands Antilles has been included in the new Penal Code. **The Committee requests the Government to specify whether public employees, such as teachers, are forbidden from striking under the new Penal Code, and to provide a copy of the new Penal Code. The Committee also requests the Government to provide detailed information on the types of circumstances in which strikes may be prohibited based on the National Ordinance on Substantive Civil Service Law.**

Nicaragua

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1967)

[Previous comment](#)

[Discussion at the International Labour Conference, May–June 2022](#)

The Committee notes the observations of the International Organisation of Employers (IOE) received on 25 August 2022 reiterating the comments made in the discussion held in the Conference Committee on the Application of Standards (hereinafter the Conference Committee) in June 2022 on the application of the Convention by Nicaragua. It also takes note of the observations of the International

Trade Union Confederation (ITUC) received on 1 September 2022, which concern issues that the Committee addresses in this comment.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

The Committee notes the discussion that took place in the Conference Committee in which the Conference Committee deplored the persistent climate of intimidation and harassment of independent workers' and employers' organizations, noted with concern the allegations of the arrest and detention of employer leaders and urged the Government, in consultation with the social partners to:

- (i) immediately cease all acts of violence, threats, persecution, stigmatization, intimidation or any other form of aggression against individuals or organizations in connection with both the exercise of legitimate trade union activities and the activities of employers' organizations, and adopt measures to ensure that such acts are not repeated;
- (ii) immediately release any employer or trade union member who may be imprisoned in connection with the exercise of the legitimate activities of their organizations, as is the case of Messrs Michael Healy, Álvaro Vargas Duarte, Jose Adán Aguerri, Luis Rivas and Juan Lorenzo Holmann;
- (iii) promote social dialogue without further delay through the establishment of a tripartite dialogue round table, under the auspices of the ILO, that is presided over by an independent chairperson who has the trust of all sectors, that duly respects the representativeness of employers' and workers' organizations in its composition and that meets periodically; and
- (iv) repeal Law No. 1040 on the regulation of foreign agents, the Special Law on Cybercrimes, and Law No. 1055 on the Defence of the Rights of the People to Independence, Sovereignty and Self-determination for Peace, which limit the exercise of freedom of association and freedom of expression.

The Conference Committee recommended that the Government avail itself of ILO technical assistance to ensure full compliance with its obligations under the Convention in law and in practice and that it accept a direct contacts mission to complete a fact-finding mission with full access related to the situation of violation of trade union rights of workers' organizations and of employers' organizations' rights as soon as possible to allow the ILO to assess the situation. It also requested the Government to submit a report to the Committee of Experts before 1 September 2022, communicating information on the application of the Convention in law and practice, in consultation with the social partners.

The Committee notes that the Government submitted a report before 1 September 2022, indicating that it responds to one of the Conference Committee's recommendations, namely the submission of a report containing information on progress achieved regarding the application of the Convention in law and practice. The Committee **deeply regrets** that the Government report contains no information on, nor any allusion to, the rest of the recommendations formulated by the Conference Committee. The Committee understands the absence of information in this respect to denote not only an evident failure on the part of the Government to give effect to its recommendations, but also an apparent lack of commitment to ensuring the Government's standards obligations are respected. ***The Committee therefore urges the Government, in the strongest terms, in consultation with the social partners, to take each and every one of the measures urged by the Conference Committee referenced above which concern serious and urgent matters that call for immediate action. The Committee urges the Government to report on all the measures adopted to ensure compliance with the recommendations of the Conference Committee and on all progress achieved in the application of those measures, above all in respect of the freeing of any employer or member of a trade union who may have been imprisoned in relation to the exercise of the legitimate activities of their organizations,***

such as is the case of Messrs Michael Healy, Álvaro Vargas Duarte, José Adán Aguerri, Luis Rivas and Juan Lorenzo Hollman.

The Committee notes the Government's indication in its report that since 2007 it has been working to restore and protect the rights of workers, including freedom of association, through dialogue and consensus among the tripartite actors to achieve stability and harmonious labour relations. The Committee firmly believes in the value of tripartite social dialogue and in the critical role that it can play in achieving significant progress in respect of the requests made by the Committee and the Conference Committee. The Committee recalls that in its comments to the Conference Committee, the IOE stressed the fundamental need to reconstruct a process of confidence and called on the Government to facilitate social dialogue with the presence of the ILO. ***The Committee therefore urges the Government to establish the tripartite dialogue round table recommended by the Conference Committee without further delay and avail itself of ILO technical assistance to ensure full compliance with its obligations under the Convention. The Committee also considers it vitally important that the Government should accept, at an early date, the direct contacts mission mentioned above. The Committee hopes that the Government will address the recommendations made and requests it to report on any progress made in this respect.***

Article 3 of the Convention. Right of workers' organizations to organize their activities in full freedom and to formulate their programmes. The Committee recalls that for over a decade it has been referring to the need to take steps to amend sections 389 and 390 of the Labour Code, which provide that collective disputes shall be referred to compulsory arbitration when 30 days have elapsed since the calling of the strike. The Committee notes in this regard that the Government reiterates that the country has a wide legal framework that covers industrial disputes; that it has been reinforcing resolution of conflicts through social dialogue and that, in accordance with the principle of sovereignty, any decision to amend the said sections must emanate from the Nicaraguan people. While noting what the Government indicates, the Committee recalls once again that the imposition of compulsory arbitration to end a strike, beyond the cases in which a strike may be limited or even prohibited, is contrary to the right of workers' organizations to freely organize their activities and formulate their programmes. ***In light of the above, the Committee strongly urges the Government to take the necessary measures to amend sections 389 and 390 of the Labour Code in order to ensure that compulsory arbitration is only possible in cases where strikes may be limited or even prohibited, namely in cases of conflict within the civil service relating to officials exercising authority on behalf of the State, in essential services in the strict sense of the term or in the event of an acute national crisis. The Committee requests the Government to provide information on any developments in this regard and firmly hopes that, in the context of the technical assistance mentioned above, progress towards compliance with the Convention will be achieved.***

Article 11. Protection of the right to organize. In its previous comment, the Committee took note of the Government's various initiatives aimed at promoting the right to organize. The Committee notes the Government's indication that it is continuing to strengthen the right to freedom of association and that, in 2021, 44 new trade union organizations were formed, affiliating 1,158 workers and 997 trade union organizations were updated, bringing together 65,233 workers. The Committee observes that, according to the Government, this statistical information, together with other statistical data on labour issues, is evidence that the country is giving effect to the Convention. ***While taking due note of this information and these indications, the Committee recalls that the rights conferred upon the employers' and workers' organizations protected by the Convention are void of meaning if there is no respect for fundamental freedoms, the right to protection from arbitrary detention and imprisonment and the right to a fair trial by an independent and impartial tribunal, questions referred to at the beginning of this comment. Recalling also that Article 11 of the Convention refers to the need to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to***

organize, the Committee requests the Government to report on initiatives taken to guarantee the exercise of this right for workers and employers, giving information on their results.

The Committee notes with deep concern the lack of action on the part of the Government to follow up on the conclusions of the Conference Committee, which demonstrates a lack of commitment to ensure respect for its obligations under the Convention. The Committee emphasizes in the strongest possible terms the need to immediately cease all acts of violence, threats, persecution, stigmatization, intimidation or any other form of aggression against individuals or organizations in connection with both the exercise of legitimate trade union activities and the activities of employers' organizations and to immediately release any employer or trade union member who may be imprisoned in connection with the exercise of the legitimate activities of their organizations. It further recalls the utmost need to re-establish genuine and constructive tripartite dialogue without further delay and the CAS request to repeal Law No. 1040 on the regulation of foreign agents, the Special Law on Cybercrimes, and Law No. 1055 on the Defence of the Rights of the People to Independence, Sovereignty and Self-determination for Peace, which limit the exercise of freedom of association and freedom of expression. In light of the above, the Committee considers that this case meets the criteria set out in paragraph 114 of its General Report to be asked to come before the Conference.

[The Government is asked to supply full particulars to the Conference at its 111th Session and to reply in full to the present comments in 2023.]

North Macedonia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1991)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations of the Confederation of Free Trade Unions of Macedonia (KSS), received on 1 September 2021, which allege restrictions on the right to strike in the education sector, the failure to transfer to trade unions the dues withheld by the employers, as well as pressure on workers to leave their trade unions. **The Committee requests the Government to provide its comments thereon.**

Articles 2 and 9 of the Convention. Scope of application. In its previous comments, the Committee had noted that, pursuant to article 37 of the Constitution, the conditions for exercising the right to union organization in "administrative bodies" (in addition to the police and the armed forces) can be limited by law and requested the Government to indicate what are the "administrative bodies" referred to in the Constitution and whether, and the extent to which, the law limits the right to organize of their workers. The Committee notes the Government's indication that "administrative bodies" referred to in article 37 of the Constitution includes ministries, other state administration bodies (as independent state administration bodies or within ministries), and administrative organizations (set up for the performance of particular professional and other works requiring the application of scientific and expert methods). The Committee further notes that the Government emphasizes that freedom of association, apart from the general framework in the Constitution, is regulated by the Labour Law, which does not stipulate any limitation thereof. **Recalling that under the Convention only the armed forces and the police may be subject to limitations concerning the enjoyment of the guarantees provided by the Convention, as well as the need to ensure conformity of national constitutional provisions with the Convention, the Committee requests the Government to take the necessary measures to amend article 37 of the Constitution to eliminate the possibility for the law to restrict the conditions for the exercise of the right to trade union organization in administrative bodies.**

Article 3. Right of organizations to freely organize their activities and to formulate their programmes. In its previous comments the Committee had noted that, under the Law on Public Enterprises and the Law on Employees in the Public Sector: (i) employees in the public sector are entitled to strike; (ii) employees in the public sector are obliged to provide minimum services taking into account the rights and interests of citizens and legal entities; and (iii) in accordance with the applicable laws and collective agreements, the head of the

respective institution determines the performance of the institutional activities of public interest that are to be maintained during a strike, the manner in which the minimum service will be carried out and the number of employees that will provide services during the strike. In this respect, the Committee recalled that the maintenance of minimum services in the event of strikes should only be possible in certain situations, namely: (i) in services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (essential services in the strict sense of the term); (ii) other services in which strikes of a certain magnitude and duration could cause an acute crisis threatening the normal conditions of existence of the population; (iii) in public services of fundamental importance; and (iv) to ensure the security of facilities and the maintenance of equipment. The Committee further recalled that minimum services imposed should meet at least two requirements: (i) must genuinely and exclusively be minimum services, that is limited to the operations which are strictly necessary to meet the basic needs of the population or the minimum requirements of the service, while maintaining the effectiveness of the pressure brought to bear; and (ii) since this system restricts one of the essential means of pressure available to workers to defend their interests, their organizations should be able, if they so wish, to participate in defining such a service, along with employers and the public authorities. The Committee welcomes the Government's indication that it will take appropriate measures to ensure compliance with the Convention of the provisions in the Law on Public Enterprises and in the Law on Public Sector Employees. ***The Committee requests the Government to take, in consultation with representative public employee and public employer organizations, any necessary measures to ensure the determination of minimum services in public enterprises conforms with the situations described above, and to provide further information concerning such determination in practice (in particular as to the types of activities, and percentage of employees in those activities, that have been affected by a determination of minimum services, as well as the possibility for employee organizations to participate in the definition of minimum services).***

In its preceding comment the Committee had requested the Government to amend section 38(7) of the Law on Primary Education and section 25(2) of the Law on Secondary Education, which oblige the school directors to provide for the realization of educational activities by replacing the striking employees when the educational activity is interrupted due to a strike. The Committee notes the Government's indication that it started amending the articles concerned to align them with the Convention but observes that, subsequently, a new Law on Primary Education was published on 5 August 2019, including a similar provision to require the replacement of striking workers. Pursuant to section 50(7), of the new Law on Primary Education, in case of a suspension of the educational and pedagogical work due to strike action, the principal of the primary school, upon receiving a previous consent by the Mayor, and by the Minister in the case of state primary schools, shall be obliged to ensure the performance of the educational and pedagogical work by substituting the striking workers for the duration of the strike action. In this regard, the Committee must recall that teachers and the public education services may not be considered an essential service in the strict sense of the term (services the interruption of which would endanger the life, personal safety or health of the whole or part of the population) and that provisions allowing for the replacement of striking workers are a serious impediment to the legitimate exercise of the right to strike. ***Regretting the lack of progress in this respect, the Committee once again requests the Government to amend the Law on Primary Education and the Law on Secondary Education, so as to remove the possibility of replacing striking workers and to enable workers in the primary and secondary education sectors to effectively exercise their right to strike, as well to provide a copy of the amended legal texts once adopted.***

Legislative review. With regard to the review process of the Law on Labour Relations, the Committee notes that the Government indicates that social partners were included from the very beginning and that in the course of drafting the new law attention shall be paid to its compliance with ILO Conventions. ***The Committee expects that, in the context of the review of the Law on Labour Relations, the Government will take the necessary measures to bring its legislation into conformity with the Convention in line with the preceding comments and requests it to provide information on any developments, including a copy of the revised Law on Labour Relations once adopted.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1991)

Previous comment

The Committee notes that the Government does not reply to the 2021 observations of the Confederation of Free Trade Unions of Macedonia (KSS) denouncing: (i) acts of anti-union discrimination, including dismissal, against trade union representatives; (ii) the non-application of collective agreements by the Ministry of Education; and (iii) the inability of the Commission for representativeness to decide on the representativeness of the KSS in the public sector. **The Committee once again requests the Government to provide its comments in this regard.**

Article 4 of the Convention. Promotion of collective bargaining. The Committee had previously requested the Government to inform on the adoption process of a new Labour Law (Law on Labour Relations) and a special Law on Worker and Employer Organization and Collective Bargaining, which had both given rise to technical comments from the Office. The Committee notes the Government's indication that the process of preparing the new Law on Labour Relations, which has involved the social partners, will be finalised in the near future. The Government informs that it has been decided that the sections relating to the organization of workers and employers as well as collective bargaining will finally be included within the framework of the new Law on Labour Relations. **Taking due note of these developments, the Committee requests the Government to take the necessary measures to ensure that due account is taken of the comments which were previously made by the Office and that the new Law on Labour Relations is adopted shortly. The Committee requests the Government to provide information on any progress made in this regard.**

Collective bargaining in practice. The Committee notes the information provided by the Government indicating that, in the private sector, a General Collective Agreement was concluded along with nine specific collective agreements, while in the public sector, a General Collective Agreement was concluded in addition to ten specific collective agreements. The Committee further notes that according to the data of the State Statistical Office for the first quarter of 2021, the General Collective Agreement in the private sector covers 449,822 employees, which represents 68.7 per cent of the 654,662 employees in the country, and the General Collective Agreement in the public sector covers 204,840 employees, which constitutes 31.3 per cent of the total number of employees in the country. **Noting with interest a sharp rise in the number of workers covered by collective agreements between 2019 and 2021, the Committee requests the Government to indicate the factors that have led to this increase. The Committee also requests it to provide information on the provisions regulating the relationship between general and specific collective agreements in private and public sectors, and to continue providing information on the application of the Convention in practice, including statistical data concerning the number of collective agreements concluded in both public and private sectors and the number of workers covered.**

Pakistan

Right of Association (Agriculture) Convention, 1921 (No. 11) (ratification: 1923)

Previous comment

In its previous comment, the Committee had trusted that the Government will ensure that it, as well as all the governments of the provinces, take the necessary measures to ensure that all workers engaged in agriculture, including in small agricultural holdings which do not run an establishment or farmers working on their own or with their family, enjoy the rights afforded by the Convention in law and in practice. The Committee notes the Government's indication that: (i) the share of agriculture in

the employed labour force in Pakistan (67.24 million) amounts to 37.4 per cent; (ii) all federal and provincial Industrial Relations Acts are applicable only to formal sector workers; (iii) the Industrial Relations Act 2012 (hereafter IRA 2012) – which covers all persons employed in any establishment or industry in the Islamabad Capital Territory or carrying on business in more than one province – does not cover the agricultural workers in its ambit, however there is no restriction on agricultural workers to form a union; (iv) Sindh Industrial Relations Act, 2013 (hereafter SIRA 2013) provides expressly in its section 1(3) that the scope of the Act extends to all persons employed in any establishment or industry, “including fishing and agriculture”, and Balochistan Industrial Relations Act, 2022 (hereafter BIRA 2022) provides in its section 1(4) that the Act shall apply to all workers and employers at all workplaces working or conducting business within Balochistan; (v) till date, the Government of Sindh has registered four unions of agriculture workers and two associations of landlords of agriculture farms; (vi) workers engaged in agriculture holdings which do not run an establishment or farmers working on their own or with family are out of the ambit of industrial relation laws. However, there is no restriction on agriculture workers to form a union. Further, they are allowed to form a cooperative society for promotion of their economic interests in accordance with cooperative principles, or a society established with the object of facilitating the operations of such a society and; (vii) the provinces are actively amending/promulgating the law relating to the right of association and extending its application to informal sector including the agriculture.

The Committee notes that even though IRA 2012; Punjab Industrial Relations Act, 2010 (hereafter PIRA 2010); and Khyber Pakhtunkhwa Industrial Relations Act, 2010 (hereafter KPIRA 2010) provide in their section 1(3) that they apply to “all persons employed in any establishment or industry” in the covered territory, and even though agriculture does not figure among the activities explicitly excluded from the scope of these Acts, they do not appear to cover agricultural establishments. In this regard, the Committee notes that Punjab Labour Policy 2018 advocates “initiation of dialogue with social partners to extend coverage and scope of the PIRA to the excluded categories of workers i.e., agriculture workers, domestic workers, home based workers and workers of informal sector”. It further notes that although SIRA 2013 and BIRA 2022 cover agricultural establishments, they leave out the informal sector, including small agricultural holdings which do not run an establishment, or farmers working on their own or with their family. In view of the above, the Committee notes with **concern** that only in two provinces, Sindh and Balochistan, workers in agricultural establishments are covered by the laws setting the framework for the exercise of the right to freedom of association in Pakistan, and therefore, a large share of agricultural workers remains excluded from the scope of these laws, both at the federal and provincial levels. It further notes that in practice, only three unions of agricultural workers in one province have been established. **Therefore, the Committee urges the Government to take adequate measures to ensure that federal and provincial Industrial Relations Acts are amended so as to expressly cover all agricultural workers, including those in the informal sector, and to enable them to enjoy the rights conferred by the Convention in law and in practice. It requests the Government to provide information on any progress achieved in this respect.**

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1951)

[Previous comment](#)

The Committee notes the observations of the International Transport Workers’ Federation (ITF) received on 2 July 2020 and the Government reply thereto. In its previous comment, the Committee had urged the Government to investigate the 2015, 2017 and 2018 ITUC allegations of violence against workers and their arrest, detention, and prosecution for trade union activities, and to ensure that sanctions are imposed on law enforcement forces. The Government responds that even though most of the sectors concerned are out of the ambit of the Ministry of Overseas Pakistanis & Human Resource

Development (hereafter MOP&HRD) as well as Labour Departments of the Provinces, the matter has been referred to the concerned quarter and information will be provided as soon as received by the Ministry. The Committee notes with **deep regret** that seven years after the communication of the first allegations brought up by the ITUC, which concern very serious violations of the workers' right to life and civil liberties, the Government has once again failed to report any investigation into the violent conduct of the law enforcement forces, the killing of two workers on 2 February 2016 and the alleged kidnapping of four union leaders and members on 3 February 2016 in connection with the Pakistan International Airlines (PIA) labour dispute. **Therefore, the Committee once again urges the Government to ensure that investigations are conducted by the public authorities into the 2015, 2017 and 2018 ITUC allegations and that sanctions are imposed against law enforcement forces responsible for use of violence against workers.**

The Committee notes the adoption of the Balochistan Industrial Relations Act No. XIX of 2022 (hereafter, BIRA 2022) on 22 June 2022, which addresses several issues raised in its previous comments.

The Committee also notes that the Committee on Freedom of Association referred to it the legislative aspects of Case No. 2096 (Report No. 392, October 2020, paragraph 109). These matters are discussed below.

Articles 2–9 of the Convention. The scope of the Convention. Excluded categories of workers. In its previous comment, the Committee had noted that sections 1(3) of the Industrial Relations Act (IRA) 2012, the Balochistan Industrial Relations Act (BIRA) 2010, the Khyber-Pakhtunkhwa Industrial Relations Act (KPIRA) 2010, the Punjab Industrial Relations Act (PIRA) 2010, and the Sindh Industrial Relations Act (SIRA) 2013 excluded many categories of workers from their scope. The Government reiterates in this regard that: (i) the exceptions provided in the federal and provincial acts are specific in nature and need to be imposed only in the cases where any action may lead to a serious security breach or an irreparable loss to the public at large; and (ii) unregistered unions/associations are formed under KPIRA 2010, and workers in private security firms can form unions. The Committee notes that only in Balochistan has there been a legislative change regarding the excluded categories of workers, where the exceptions retained are the following: (a) section 1(5) of BIRA 2022 allows the Government to impose reasonable restrictions on the exercise of the right to form associations or unions in any public sector organization, in the interest of sovereignty or integrity of Pakistan, for such time as it may deem proper; (b) section 1(6) provides that the act “shall not apply to Police, Levies or any of the Defense Services of Pakistan or any services or installations exclusively connected with or incidental to armed forces of Pakistan and essential services”. The Committee notes with **interest** that many previously excluded categories in Balochistan are now brought within the scope of the industrial relations legislation. Nevertheless, it notes that the exceptions retained in the new law are still larger than the ones authorized under the Convention:

- (i) regarding section 1(5) of the BIRA 2022, the Committee recalls that the Convention contains no provisions allowing the invocation of a state of emergency to justify exemption from the obligations arising under it or any suspension of their application. Any such exemption cannot be used to justify restrictions on civil liberties that are essential to the proper exercise of trade union rights, except in circumstances of extreme gravity and on condition that any measures affecting the application of the Convention are limited in scope and duration to what is strictly necessary to deal with the situation in question. The Committee notes with **concern** that the language of section 1(5) referring to the “interest of sovereignty and integrity of Pakistan” evokes concepts broader than a state of emergency and does not clearly indicate any limitation in time, thereby giving a too broad discretion to the government to impose restrictions on the rights guaranteed in the Convention to public sector employees. Considering that BIRA 2022 was adopted after the judgment of the High Court of Balochistan dated 24 June 2019 (C.P Nos 669/2013 & 400/2015), in which the Court

ruled that the right to form trade unions is not available to civil servants, the Committee firmly recalls that it has always considered that the right to establish and join organizations should be guaranteed for all public servants and officials, irrespective of whether they are engaged in the state administration at the central, regional or local level, are officials of bodies which provide important public services or are employed in state-owned economic undertakings;

- (ii) concerning the reference to “any services or installations exclusively connected with or incidental to armed forces of Pakistan” in section 1(6), the Committee recalls that the exceptions under *Article 9* of the Convention do not include civilian personnel in the armed forces, nor the civilian employees in the industrial establishments of the armed forces; and
- (iii) concerning the reference to “essential services” in section 1(6), the Committee is bound to repeat its previous comments concerning the distinction between the right to establish and join a union, of which only the armed forces and the police can be deprived, and the right to strike, which may be restricted in certain categories of public servants, essential services in the strict sense of the term, and situations of acute national or local crisis. While the exercise of the right to strike of the workers in essential services can be restricted or even prohibited, their exclusion from the right to establish and join unions is an infringement of the Convention.

Regarding trade union rights of the associations of public officials and employees of publicly owned undertakings, the Committee notes the observations of the ITF denouncing the derecognition of Pakistan Airline Pilots’ Association (PALPA), the sole representative organization for pilots in Pakistan, and unions representing other workers in PIA, as well as the termination of all working agreements through a notice of the employer communicated on 30 April 2020. This notice indicated that except for the Collective Bargaining Agent (CBA), no other union, society or association will be recognized as representative of all or any category of employees. In reply, the Government indicates that: (i) PALPA is neither a registered union, nor the recognized CBA under the IRA 2012, it is an association of persons registered under the Societies Registration Act (SRA) 1860; (ii) any agreement with it is a civil contract only, which can be terminated by any party; (iii) the company does not intend to stop trade union and collective bargaining activities in the establishment. The Committee recalls in this regard that as it had noted in its 2016 observation concerning the application of the Convention in Pakistan, the Government had indicated that public officials and employees of publicly owned undertakings which are excluded from the purview of the industrial relations legislation, get coverage under article 17 of the Constitution as enforced by the SRA and had referred to PALPA as an example of such associations. In view of the Government reply to the ITF observations, the Committee is bound to note that the categories of workers excluded from the industrial relations legislation cannot exercise the rights enshrined in the Convention by forming associations under the SRA. ***In view of the above, while welcoming certain legislative changes in Balochistan, the Committee urges the Government to ensure that the federal and provincial governments take the necessary measures to revise the IRA, the BIRA, the KPIRA, the PIRA and the SIRA so that all categories of workers can enjoy their rights under the Convention, the only admissible exception – which must be construed in a restrictive manner – being the police and the armed forces. It further urges the Government to ensure that the government of Balochistan takes all the necessary measures, including legislative, to guarantee that civil servants are able to form and join organizations of their own choosing freely and to engage in activities for the furtherance and defence of their members’ interest. Pending legislative reform, it also urges the Government to take all the necessary measures to ensure that the associations of currently excluded categories of workers can represent the interests of their members in relation to the employer and the authorities. The Committee requests the Government to provide information on the measures taken in this respect.***

Managerial employees. The Committee notes that sections 2 of IRA, BIRA, KPIRA, PIRA and SIRA contain an excessively broad definition of the term “employer”, and a correspondingly restrictive

definition of the term “worker” or “workman”. The definition of “employer” includes any person responsible for management, supervision, and control of the establishment. In a department of the federal government or the government or local authority, officers and employees who belong to the superior, managerial, secretarial, directorial, supervisory or agency staff shall be deemed to fall within the category of “employers”. Pursuant to IRA, PIRA and SIRA (but not KPIRA and BIRA 2022), in any other establishment, every director, manager, secretary, agent or officer or person concerned with the management is considered an employer. The term worker is defined in contrast as a person not falling within the definition of employer, who is employed – including as a supervisor or apprentice – in an establishment or industry for hire or reward.

The Committee further notes that the effect of these definitions on workers’ organizations and on trade union rights of managerial staff is crystallized in sections 31(2) of the IRA and 17(2) of its provincial variants, which provide that an employer may require that a person, upon appointment or promotion to a managerial position, shall cease to be and disqualified from being a member or official of a trade union of workmen. BIRA 2022 additionally provides that the employer may impose such a requirement, provided that no promotion is effected against the will of the worker or to prejudice his/her right to trade unionism. The Government indicates in this regard that: (i) BIRA 2022 provides that managerial and administrative staff and staff of occupational groups shall have the right to form an association/organization or to join the association/organization of their own choice; (ii) the managerial employees have all those rights of association that employers have under the laws, namely that they can establish and join associations of their choice without previous authorization and establish and join federations and confederations; and (iii) the employees in managerial capacity have the status of employer as they represent employers at all legal fora, hence they cannot be treated at par with the workers. The Committee notes that the legal provisions referred to above deprive large categories of administrative, agency and managerial staff from their trade union rights as employees, because employers’ associations by definition represent employers who are workers’ counterparts and cannot become collective bargaining agents, undertake collective bargaining, raise an industrial dispute, give a strike notice, and have access to conciliation and voluntary arbitration proceedings. They also have a negative impact on workers’ organizations by significantly reducing the number of their potential members. The Committee recalls that it has always considered that: (i) senior managerial staff may be denied the right to join the same organizations as other workers, provided that they have the right to form their own organizations to defend their interests; and (ii) where managerial staff are denied the right to join the same organizations as other workers, the category of executive and managerial staff should not be so broadly defined as to weaken the organizations of other workers by depriving them of a substantial proportion of their actual or potential membership. The Committee welcomes the change introduced by the adoption of section 3(e) of BIRA 2022, that enables managerial employees to establish their own organizations which are distinct from employers’ and workers’ organizations. However, it notes with **concern** that despite its longstanding requests, this right is not yet guaranteed for them in the federal act and provincial acts other than the BIRA. Regarding the broad terms of the definition of “employer”, the Committee notes that they remain unchanged in the industrial relations legislation. ***In view of the above, the Committee urges the Government to ensure that the federal and provincial acts are revised with a view to: (i) enabling senior managerial workers to establish and join organizations that can adequately defend their occupational interests; and (ii) guaranteeing that workers’ organizations are not deprived of a substantial proportion of their actual or potential membership as a result of the current legal definitions of “workmen” and “employers”. It requests the Government to provide information on the measures taken in this regard.***

Export processing zones (EPZs). For many years, the Committee has been requesting the Government to take the necessary steps to ensure that the workers in EPZs can benefit from the rights enshrined in the Convention. The Committee recalls that these workers were excluded from the scope of industrial relations legislation (Industrial Relations Ordinance, 1969) pursuant to clause 7 of S.R.O

1004(1)/82, dated 10 October 1982. The Committee notes the Government's indication that the Federal Government partially withdrew S.R.O 1004(1)/82, except clause 7, through a notification dated 5 August 2022. The Government indicates that with this notification, eight labour-related laws which were not applicable to EPZs became applicable; however, the only exemption remains the Industrial Relations Ordinance, 1969. The Government adds that the EPZ (Employment and Service Condition) Rules 2009 have been finalized and workers are accordingly given rights guaranteed under the Convention, including the right to strike. Taking due note of the information submitted by the Government, the Committee also notes that no copy of the 2009 Rules is attached to the Government report. Therefore, it cannot examine the extent to which these rules guarantee the rights enshrined in the Convention. **The Committee requests the Government to submit a copy of the final version of EPZ (Employment and Service Condition) Rules 2009. It also requests the Government to provide information on the exercise of trade union rights in the EPZs, including the trade unions registered and the number of unionized workers, as well as any instances in which trade unions have been refused registration and the reasons therefor.**

Article 2 of the Convention. Right of workers and employers to establish and join organizations of their own choosing. The Committee had previously noted that pursuant to the IRA and its provincial variants, no worker shall be entitled to be a member of more than one trade union at any one time and had requested the Government to revise the relevant legal provisions. It notes that the Government reiterates its previous indications in this regard: (i) as per section 48 of the Factories Act, adult workers shall not be employed to work in any factory on any day on which they have already been working in any other factory; (ii) the restriction of membership in more than one trade union is very restrictive but vital for healthy trade unionism; in the same establishment it would result in overlapping membership of more than one rival trade union which generally have to contest referendums against each other for determination of CBA; (iii) pursuant to a portion of Form-C of the Khyber Pakhtunkhwa Industrial Relations Rules, 1974, while the same person cannot become a member of more than one union in the same establishment/group of establishments/industry to which the trade union relates, this is possible if the establishments are different.

The Committee recalls in this regard that it is not a requirement of the Convention that workers should have the right to join more than one union relating to the same establishment. However, as mentioned in its previous comments, it considers that workers who are engaged in more than one job – in different establishments – should be allowed, to join the corresponding union of their choice, that is more than one union; and in any event workers should be able, if they so wish, to join trade unions at the national and branch level as well as the enterprise level at the same time. Compliance with this principle will not entail overlapping memberships. The Committee notes with **satisfaction**, that section 3(a) of BIRA 2022 restricts membership in more than one trade union at any one time at the same workplace only, which brings this act in line with the above principle. **The Committee urges the Government to take the necessary measures to ensure that IRA, KPIRA, PIRA and SIRA are also amended with a view to bringing them into conformity with the above principles. It requests the Government to provide information on the measures taken in this regard.**

Article 3. The right of workers' and employers' organizations to organize their administration and activities and to formulate their programmes. Rights of minority unions. In its previous comments, the Committee had noted that certain rights, in particular to represent workers in any proceedings and to check-off facilities, were granted only to CBAs, that is to say the most representative trade unions. The Committee notes the Government's indication that the check-off system will help minority unions in keeping proper record of subscription of their members. Concerning the provision of other rights of CBA to minority unions, the Government states that it would take away the difference between CBA and other unions but adds nevertheless that section 24(1) of BIRA 2022 provides that a trade union shall be permitted to act as a CBA on behalf of its members. The Committee further notes that section 27(1) of BIRA provides that if a CBA so requests, the employer shall provide check-off facilities to it; section 36(1)

of BIRA concerning individual grievances provides that workers may bring individual grievances to the notice of the employer through their trade union or CBA, but section 36(4) concerning proceedings before the Labour Court refers to the CBA only; and section 37(1) of the BIRA 2022 concerning negotiations relating to collective differences and disputes refers to CBA or trade union where no CBA exists, but section 37(3) concerning notice of strike refers to the CBA only. The Committee notes that it is not clear whether these BIRA provisions referring to CBA, mean the CBA on behalf of the union's own members (section 24(1)), which can be any minority union, or the CBA for the establishment, that is to say the most representative trade union (section 24(2-11)). **It requests the Government to clarify this matter.** The Committee **regrets** that despite its repeated requests, the Government does not indicate any progress concerning the rights of minority unions. The Committee is therefore bound to reiterate that the distinction between most representative and minority unions should be limited to the recognition of certain preferential rights (for example, for such purposes as collective bargaining, consultation by the authorities or the designation of delegates to international organizations); however, the distinction should not have the effect of depriving those trade unions that are not recognized as being among the most representative, of the essential means of defending the occupational interests of their members (for instance, making representations on their behalf, including representing them in case of individual grievances), of organizing their administration and activities, and formulating their programmes (including giving notice of and declaring a strike), as provided for in the Convention. **In view of the above, the Committee once again urges the Government to take the necessary measures to ensure that federal and provincial legislation is amended as soon as possible, with a view to guaranteeing full respect for the above-mentioned principles. It requests the Government to provide information on developments in this regard.**

Right of workers' and employers' organizations to draw up their constitutions and freely elect their representatives. Banking sector. In its previous comments, the Committee had noted that section 27-B of the Banking Companies Ordinance of 1962 restricted the possibility of becoming an officer of a bank union only to employees of the bank in question under penalty of up to three years' imprisonment, and had urged the Government to amend the legislation. The Committee recalls that this longstanding issue is also the object of Case No. 2096 before the Committee on Freedom of Association, which was first examined in October 2000. The Committee notes with **deep regret** that the Government does not provide any information concerning developments in this regard. It is therefore bound to reiterate that provisions like section 27-B infringe the right of organizations to draw up their constitutions and to freely elect representatives by preventing qualified persons (such as full-time union officers or pensioners) from being elected and by creating a risk of interference by the employer through the dismissal of trade union officers, which deprives them of their trade union office. **Therefore, the Committee once again urges the Government to take the necessary measures to amend the legislation by making it more flexible, either by admitting as candidates persons who have previously been employed in the occupation concerned, or by exempting from the occupational requirements a reasonable proportion of the officers of an organization, along the lines of section 8(d) of the IRA. The Committee requests the Government to provide information on any developments in this regard.**

Right of organizations to organize their administration and to formulate their programs. The Registrar's powers of investigation, inspection, and inquiry into the affairs of a trade union. In its previous comments, the Committee had noted that the legislation conferred extensive powers of inspection, inquiry, and investigation "as he/she deems fit" to the Registrar regarding the internal affairs of unions and requested the Government to make legislative amendments to limit these powers. The Government indicates in this regard that: (i) the Registrar inspects the accounts and records of unions to avoid malpractice and ensure transparency. The purpose of inquiry into the unions' affairs is limited to unveiling certain crucial facts and figures; (ii) in the province of Sindh, in certain cases huge funds of the union were spent lavishly either by the outgoing or incoming executive but were not accounted for. The Registrar's power to check the accounts does not mean interference in the affairs of the union but is to

ensure that expenditure was made properly; and (iii) the Government of Khyber Pakhtunkhwa commits that the financial powers of the Registrar under the KPIRA might be minimized. While noting that the Government once again indicates that the purpose of the Registrars' inquiry is limited and their power does not mean interference, the Committee recalls that it considers that the wording of the relevant legislative provisions empowering the Registrar to proceed to inquiry "as he/she deems fit" is excessively broad and not compatible with the principle enshrined in *Article 3* of the Convention. The Committee notes with **concern** that the Government does not indicate any progress and furthermore section 15(e) of BIRA 2022 contains no change in this regard. ***It therefore once again requests the Government to ensure that the federal and provincial legislation is amended with a view to explicitly limiting the powers of financial supervision of the Registrar to the obligation of submitting annual financial reports and to verification in cases of serious grounds for believing that the actions of an organization are contrary to its rules or the law or in cases of a complaint or call for an investigation of allegations of embezzlement from a significant number of workers (2012 General Survey on the fundamental Conventions, paragraph 109).***

Right of organizations to freely elect their representatives. Disqualification criteria. In its previous comments the Committee had noted that the IRA and its provincial variants establish excessively broad disqualification criteria for being elected or holding union office and had requested the Government to amend the legislation. The Committee recalls that the following grounds for disqualifications are provided in the legislation: (i) conviction and prison sentence for two years or more, or in an offence involving moral turpitude under the Pakistan Penal Code (PPC), unless a period of five years has elapsed after the completion of the sentence (IRA section 18); (ii) conviction for heinous offence under the PPC (section 7 of the BIRA, KPIRA, PIRA and SIRA); (iii) violation of the National Industrial Relations Commission or Labour Court order to stop a strike (section 44(10) of the IRA, 59(7) BIRA, 60(7) KPIRA, 56(7) PIRA, and 57(7) SIRA); (iv) conviction for embezzlement or misappropriation of funds (7 cum 69 PIRA and 7 cum 70 of the SIRA); and (v) conviction for contravention or failure to comply with the provisions of KPIRA (7 cum 74 KPIRA). The Committee notes the following information provided by the Government in this regard: (i) the grounds for disqualification in IRA are reasonable to protect the interest of discipline and good governance at enterprise level. The offences of theft, embezzlement and moral turpitude seriously damage the relationship of trust and mutual respect between employers and workers as well as such person's ability to represent workers; (ii) the grounds for disqualification under PIRA just cover the crucial minimum requirements as they only extend to a certain specified period; (iii) the Governments of Khyber Pakhtunkhwa and Sindh will discuss the matter in the Provincial Tripartite Consultative Committee; and (iv) the Government of Balochistan has proposed to omit disqualification for embezzlement and misappropriation of funds. The Committee welcomes that in BIRA 2022, disqualification for embezzlement and misappropriation of funds is indeed removed; however disqualification for heinous offence and violation of a court order to stop a strike are maintained. Noting with **concern** that the Government does not report any progress concerning this and other disqualification criteria noted herein, the Committee once again emphasizes that legislation which establishes excessively broad ineligibility criteria such as by means of a long list, including acts which have no real connection with the qualities of integrity required for the exercise of trade union office, is incompatible with the Convention. The Committee considers that not every contravention of industrial relations legislation, nor every violation of a judicial order to stop a strike, nor every conviction for the range of offences alluded to necessarily constitute acts of such a nature as to be prejudicial to the performance of trade union duties. ***The Committee therefore once again urges the Government to ensure that the federal and provincial legislation is amended so as to make the grounds for disqualification more restrictive and to provide information on developments in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

(ratification: 1952)

Previous comment

In its previous comment, in relation to the 2020 observations of the International Transport Workers' Federation, the Committee had requested the Government to ensure that pilots can exercise their right to collective bargaining through organizations that genuinely represent their interests, that the freely concluded collective agreements at the national airline company should be binding on the parties and to promote co-operation and dialogue among social partners in the aviation industry. **Noting with regret that the Government does not provide information on any measures taken in this respect the Committee is therefore bound to reiterate its previous requests.** The Committee had further requested the Government to respond to the International Trade Union Confederation (ITUC) allegations concerning acts of anti-union discrimination and acts of interference in trade union internal affairs that dated back to 2012 and 2015. The Government indicates in this regard that it is working to provide the right to establish and join organizations to all workers and employers and no anti-union dismissal or act of interference in union's internal affairs could be done by the employers. It further cites the provisions of the Balochistan Industrial Relations Act (BIRA) 2022 concerning the prohibition of anti-union discrimination and acts of interference by the employer. The Committee takes note of this information.

The Committee also notes that the Committee on Freedom of Association referred to it the legislative aspects of Case No. 2096 that relate to the Convention (Report No. 392, October 2020, paragraph 109). These matters are discussed below.

Articles 1-6 of the Convention. Scope of application of the Convention. The Committee notes that the Industrial Relations Act (IRA) 2012, the Khyber-Pakhtunkhwa Industrial Relations Act (KPIRA) 2010, the Punjab Industrial Relations Act (PIRA) 2010 and the Sindh Industrial Relations Act (SIRA) 2013, exclude numerous categories of workers (enumerated by the Committee in its 2022 comments on the application of Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)) from their scopes of application. The Government indicates in this regard that it is its obligation to extend the right to freedom of association to all sectors of the economy, formal and informal and further refers to the adoption of BIRA 2022, which scope of application covers "all workers and employers at all workplaces"(section 1(4)), with the exception of "the Police, Levies or any of the Defence Services of Pakistan or any services or installations exclusively connected with or incidental to armed forces of Pakistan and essential services"(section 1(5)). The Committee notes with **interest** the legislative change in Balochistan, which has the effect of bringing many previously excluded categories of workers within the scope of the BIRA, allowing them to enjoy their rights under the Convention. It notes however, that the BIRA still excludes "any service or installation" connected to the armed forces, as well as "essential services"; and recalls in this regard that civilian personnel in the armed forces as well as workers in essential services should enjoy the rights and guarantees enshrined in the Convention. **In view of the foregoing, while welcoming the legislative change in Balochistan, the Committee once again urges the Government to ensure that the federal and provincial governments take the necessary measures to amend the legislation so as to ensure that all workers, with the only possible exception of the police, the armed forces and the public servants engaged in the administration of the State benefit from the rights and guarantees enshrined in the Convention. It requests the Government to provide information with respect to measures taken in this regard.**

Export processing zones (EPZs). The Committee recalls that since the adoption by the federal Government of S.R.O 1004(1)/1982 dated 10 October 1982 relating to exemption of EPZs from various labour laws, the EPZs were exempted from the application of industrial relations legislation (clause 7 of the S.R.O, referring to the applicable law at the time, namely the Industrial Relation Ordinance of 1969).

For many years, the Government kept reiterating that it was working on Export Processing Zones (Employment and Service Conditions) Rules, 2009, which would guarantee the right of EPZ workers to organize. The Government indicates in this regard that it has “partially” withdrawn S.R.O 1004(1)/1982 “except clause 7” through a notification dated 5 August 2021 and that now the only exemption to the application of labour laws in the EPZs is the Industrial Relations Ordinance. It adds that the 2009 Rules have been finalized and the workers in EPZs can enjoy the rights guaranteed under the Convention accordingly. The Committee notes however, that the Government does not provide a copy of the final version of 2009 Rules and therefore it is not in the position to evaluate whether and to what extent these Rules guarantee the rights enshrined in the Convention. ***In view of the foregoing, the Committee requests the Government to provide a copy of the final version of the Export Processing Zones (Employment and Service Conditions) Rules, 2009. It firmly hopes that the rights of EPZ workers under the convention, especially their right to collective bargaining, is duly guaranteed in law and in practice and requests the Government to provide information concerning any collective bargaining taking place in the EPZs and any collective agreements concluded there, including the names of the parties and the number of workers covered.***

Article 1 of the Convention. Protection against acts of anti-union discrimination. Banking sector. For the past 20 years, the Committee has repeatedly urged the Government to repeal section 27-B of the Banking Companies Ordinance, 1962, which imposes penal sanctions (up to 3 years imprisonment and/or fines) for the exercise of trade union activities during office hours. The Government indicates in this regard that after the promulgation of IRA 2012, almost all trade unions in banking sector are regulated under the federal law because of their trans-provincial character and despite section 27-B, unions in the banks are registered with the National Industrial Relations Commission (NIRC) and are properly working. It provides a list of unions in the banks all over the country. More precisely regarding section 27-B itself, the Government once again indicates that the Ministry is vigorously pursuing the matter with the concerned quarters for its removal. The Committee notes with **deep concern** that no progress is reported concerning the repealing of section 27-B, which punishes trade unionists for legitimate union activities and so constitutes a serious infringement of *Article 1* of the Convention. ***The Committee therefore urges the Government once again to repeal section 27-B of the Banking Companies Ordinance, 1962, to enable workers in the banking sector to exercise trade union activities in conformity with Article 1 of the Convention.***

Article 4 of the Convention. Collective bargaining. The Committee notes that pursuant to section 19 of the IRA and section 24(1) of the KPIRA, PIRA and SIRA, if a trade union is the only one in the establishment or group of establishments (or industry in the KPIRA, PIRA and SIRA) but it does not have at least one third of the employees as its members, no collective bargaining is possible at the given establishment or industry. In its previous comments, it had considered that these rules constitute an obstacle to the promotion of free and voluntary collective bargaining in practice. The Government indicates in this regard that section 24(1) of BIRA 2022 has incorporated the recommendation of the Committee and reads “A trade union shall be permitted to act as a collective bargaining agent on behalf of its members”. It adds that the other laws would be amended accordingly in consultation with the social partners. ***While noting with interest the change introduced in BIRA, and welcoming the Government's expression of intent to amend other federal and provincial laws likewise, the Committee expresses the firm hope that the legislation will be soon amended, with a view to ensuring that when there is no union representing the required percentage to be designated as the collective bargaining agent, collective bargaining rights are granted to the existing unions, jointly or separately, at least on behalf of their own members.***

The Committee notes that the provisions on the determination of collective bargaining units give competence in this regard to the NIRC (section 62 of the IRA), the Labour Appellate Tribunal (section 25 of the KPIRA and PIRA) or the Registrar (section 25 of the BIRA and SIRA) and that previously certified unions can lose their status of collective bargaining agents as a result of a decision in which the parties

played no part. The Committee notes with **concern** that BIRA 2022 reproduces this provision, and **regrets** that the Government does not report any measures taken to revise the law in this respect. ***The Committee therefore requests the Government to ensure that the necessary measures are taken by the federal and provincial governments to amend the legislation so that the social partners can participate in the determination or modification of the collective bargaining unit.***

In its previous comments, the Committee had requested the Government to ensure that both federal and provincial governments guarantee that the existence of elected workers' representatives directly elected to work councils is not used to undermine the position of the trade unions concerned or their representatives and to submit a copy of the Rules providing the notice and procedure for the election of workers' representatives to work councils. The Committee notes with **regret** that the Government has not provided any information in this respect. ***It is therefore bound to reiterate its request.***

Collective bargaining in practice. The Committee notes with **deep regret**, that the Government has not responded to its repeated requests to provide information on the number of collective agreements concluded and in force, the sectors concerned, and the number of workers covered, as well as on any measures taken to promote collective bargaining. ***The Committee expresses the firm hope that the Government will communicate the requested information in its next report.***

Panama

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1958)

Previous comment

The Committee notes the observations of the National Confederation of United Independent Unions (CONUSI) received on 31 August 2022 relating to issues addressed in this comment. The Committee notes that the CONUSI's allegations with regard to compulsory arbitration and the exercise of the right to strike in the air transport sector are being examined by the Committee on Freedom of Association (Case No. 3319). The Committee notes the observations of the National Council of Organized Workers (CONATO), received on 6 September 2022, alleging the intervention of the civil authorities in the decisions of trade union organizations with regard to their administration and obstacles on the part of the Government to the establishment and granting of legal personality to trade union organizations in various sectors. The Committee notes the Government's reply, received on 6 December 2022, to the CONUSI and the CONATO observations and will examine it in the context of the next examination of the application of the Convention.

Tripartite committees. The Committee notes the information provided by the Government with regard to the functioning of the committees which form part of the Panama tripartite agreement of 2012 and benefit from ILO technical support; the Implementation Committee and the Committee for the Rapid Handling of Complaints relating to Freedom of Association and Collective Bargaining. The Committee notes the Government's comments that during the COVID-19 pandemic, such tripartite committees were used to discuss the various measures to be implemented in order to address the social and labour problems arising from the pandemic with the social partners. In this respect, the Government highlights the establishment of the tripartite dialogue forum on the economy and labour development in Panama (Decision No. 150 of 27 April 2020), which was established in May 2020 and functioned for one month with ILO technical support. The Committee notes the Government's indication with regard to the adoption of 23 consensus agreements to preserve jobs, businesses and the economic recovery. On the other hand, the Committee notes that the CONUSI alleges that no effective consensus was reached on the measures adopted at the tripartite dialogue forum of May 2020. The Committee **regrets** the Government's indication that as of April 2020, the work of the tripartite committees was

suspended by the pandemic and that it had not been possible to resume this work despite the attempts of the Ministry of Labour and Labour Development (MINTRADEL), because the required quorum was not reached due to the repeated absence of the CONATO. In this respect, the Committee notes that the CONATO and CONUSI have joint representation on the tripartite committees, as confirmed by the Government Procurator under section 1066 of the Labour Code, and that MINTRADEL will follow the Procurator's guidance. The Committee notes that the CONUSI states that inter-union conflicts have been engendered by the Government's policies, which have favoured trade unions other than CONUSI. The Committee recalls the potential of the two committees to play a fundamental role in achieving the implementation of the Convention. ***The Committee urges the Government, in consultation with the social partners and with the ongoing technical support of the Office, to take the necessary steps to review the applicable policies relating to representation of the different trade union organizations on the tripartite committees with a view to restarting their work in the near future and, the Committee reiterates its invitation to the various State authorities to take due account of the tripartite committees' decisions. The Committee requests the Government to provide information in this respect.***

The Committee notes the Government's indication concerning follow-up to the Memorandum of Understanding signed in 2016, relating to the Panama tripartite agreement of 2012, which establishes a timetable of activities including the establishment of a national tripartite body (Higher Labour Council), which should have been established in 2016 but which, with ongoing ILO technical support, is the topic of a bill scheduled for discussion at the July 2022 Session of the National Assembly. ***The Committee requests the Government to provide information on progress made in the establishment of this tripartite body.***

Legislative matters. The Committee recalls that for many years it has been commenting on the following matters which raise problems of conformity with the Convention:

Article 2 of the Convention. Right of workers and employers without distinction whatsoever to establish and join organizations:

- the requirement that there may not be more than one association in a public institution, and that associations may have provincial or regional chapters, but not more than one chapter per province, under the terms of sections 179 and 182 of the Single Text of Act No. 9, as amended by Act No. 43 of 31 July 2009;
- the requirement of too large a membership (ten) for the establishment of an employers' organization and an even larger membership (40) for the establishment of a workers' organization at the enterprise level, under the terms of section 41 of Act No. 44 of 1995 (amending section 344 of the Labour Code), and the requirement of a high number of members (40) to establish an organization of public servants under section 182 of the Single Text of Act No. 9 (which, as indicated by the Government, has been declared unconstitutional by the Supreme Court, in a ruling of 30 December 2015); and
- the denial to public servants (non-career public servants, as well as those holding appointments governed by the Constitution and those who are elected and serving) of the right to establish unions.

Article 3. Right of organizations to elect their representatives in full freedom:

- the requirement to be of Panamanian nationality in accordance with the Constitution in order to serve on the executive board of a trade union.

Right of organizations to organize their activities and to formulate their programmes in full freedom:

- legislation interfering with the activities of employers' and workers' organizations (sections 452(2), 493(4) and 494 of the Labour Code); the obligation for non-members to pay a solidarity contribution in recognition of the benefits derived from collective bargaining (section 405 of the Labour Code); and the automatic intervention of the police in the event of a strike (section 493(1) of the Labour Code); and
- the prohibition on federations and confederations from calling strikes, the prohibition on strikes against the Government's economic and social policies and on strikes not related to an enterprise collective agreement; the authority of the Regional or General Labour Directorate to refer labour

disputes to compulsory arbitration in private transport enterprises (sections 452 and 486 of the Labour Code); and the obligation to provide minimum services with 50 per cent of the staff in the transport sector, as well as the penalty of summary dismissal of public servants for failure to maintain minimum services (sections 155 and 192 of the Single Text of 29 August 2008, as amended by Act No. 43 of 31 July 2009).

The Committee notes the information provided by the Government that it has not been possible to reform the constitutional provision on the requirement to be of Panamanian nationality in order to serve on an executive board due to the political situation in the country and the fact that the Constitution is rigid, although the Government emphasizes its interest in eliminating this constitutional provision. ***The Committee requests the Government to provide information on the measures envisaged or taken to amend this provision in the Constitution and to ensure that it is in conformity with the Convention.***

With regard to the aforementioned provisions relating to the public sector, the Committee notes with **concern** that, according to the information provided by the Government, it has not been possible to make progress in the National Assembly with regard to the Bill on collective labour relations in the public sector due to the opposition of some organizations, and that a new bill must be drafted and submitted for discussion. The Committee recalls that in its previous comment it had welcomed the Bill with interest and had noted the Government's representation that the Bill was based on tripartite agreement. With regard to the pending legislative matters relating to the private sector, the Committee notes the Government's indication that progress has been limited due to the existing conflict in the Implementation Committee with respect to trade union representation. The Committee also notes the Government's confidence that once the Higher Labour Council has been established and is operational, more favourable conditions in which to make progress with the adoption of the legislation and the necessary reforms will be created such that the pending legislative matters will be resolved. The Committee also notes that the Committee on Freedom of Association expressed confidence that the Government would adopt legislation to regulate the establishment, registration and functioning of public sector trade unions at the earliest opportunity in accordance with the principles of freedom of association and collective bargaining (389th Report, June 2019, Case No. 3317, paragraph 527). ***The Committee urges the Government, without delay and in consultation with the social partners, to take the necessary steps to bring its legislation on collective labour relations in the public sector, as well as those outstanding legislative matters relating to the private sector into conformity with the Convention. The Committee requests the Government to provide information on the progress achieved in this respect and reminds the Government that it may avail itself of the technical assistance of the Office.***

Application of the Convention in practice. Granting of legal personality by the administrative authority. With regard to the normalization of granting legal personality to trade unions, the Committee notes that the Government highlights that during the period from March 2014 to March 2022, MINTRADEL granted legal personality to 16 public servants' unions and 72 trade unions in the private sector. The foregoing stands in contrast with the period from July 2009 to June 2014, during which the legal personality of only 9 private sector trade unions was approved. The Committee notes the Government's indication that from May 2018 to May 2022, 22 applications for legal personality were denied due to the fact that, in general terms, they were not in accordance with the relevant legal provisions, and that three applications remained to be approved. The Government indicates that in 2022, no applications for legal personality in the public sector were denied. The Committee notes that the three applications pending approval were submitted between April, May and June 2021. The Committee recalls that under *Article 7* of the Convention, the recognition of legal personality cannot be denied to organizations that comply with the requirements established by the legislation. ***While taking due note of the overall increase in the number of legal personalities granted, the Committee requests the Government to ensure that the normalization of the process of granting legal personality applies fully to public sector as well as private sector organizations. Observing that the period of time required***

for decisions on the granting of legal personality is excessive in some cases, the Committee requests the Government to take the necessary steps to expedite these procedures and to provide information in this respect.

Compensatory guarantees. The Committee notes the Government's reply to the observations of the CONUSI and the International Transport Workers' Federation (ITF) of 2017 and 2018, with respect to the effectiveness of dispute settlement procedures, particularly as compensatory guarantees, in the Panama Canal. The Government indicates that the CONUSI and the ITF lack representativeness in the Panama Canal labour regime, since they are not trade union organizations or bargaining units recognized by the Labour Relations Board of the Panama Canal Authority, and that the Committee on Freedom of Association (Case No. 3106) examined this matter and closed the case. The Committee notes the CONUSI's indication in its observations that it is a confederation to which several trade unions representing workers in the Panama Canal belong, together with the ITF. The Committee recalls that workers deprived of the right to strike should, in practice, be afforded impartial and rapid compensatory guarantees, such as conciliation and mediation procedures leading, in the event of deadlock in negotiations, to an arbitration mechanism seen to be reliable by the parties concerned. The Committee also recalls that the Committee on Freedom of Association closed Case No. 3106 in 2018, trusting that the Government would continue to follow up the issues raised with the unions concerned to consider any relevant improvements (387th Report, October 2018, Case No. 3106, paragraph 47). **Noting that the Government does not provide further details with regard to the effectiveness of the dispute settlement procedures established as compensatory guarantees in the Panama Canal, the Committee requests the Government to provide detailed information in this respect including the number of procedures initiated and resolved and their duration.**

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1966)

Previous comment

The Committee notes the observations of the National Confederation of United Independent Unions (CONUSI) received on 31 August 2022, containing allegations of violations of freedom of association and collective bargaining, including non-compliance with the collective agreement signed by the Ships' Deck Officers and Pilots (UCOC) and the Panama Canal Administration, and anti-union practices, bad faith in collective bargaining, interference and persecution of trade union leaders and trade union members in enterprises in the electricity industry, in the public sector and other sectors, as well as other issues examined in this comment. The Committee also notes the observations of the National Council of Organized Workers (CONATO) received on 6 September 2022 containing allegations of obstacles to freedom of association and collective bargaining, including the prolongation of collective bargaining processes and the adoption of unilateral measures by the Government since the beginning of the COVID-19 pandemic. The Committee takes note of the Government's reply to the observations of the CONUSI and the CONATO, received on 6 December 2022, which it will take into consideration at its next examination of the application of the Convention in Panama.

The Committee notes the Government's comments and the detailed observations of CONUSI with respect to Cases Nos 3317, 3319 and 3377 which are pending before the Committee on Freedom of Association, and Case No. 3328 which was examined and closed by the Committee on Freedom of Association.

Tripartite committees. The Committee notes the Government's information regarding the functioning of the committees which form part of the Panama tripartite agreement of 2012, and which benefit from the technical assistance of the ILO: the Compliance Committee and the Committee for the Rapid Handling of Complaints relating to Freedom of Association and Collective Bargaining (the

Complaints Committee). The Committee notes the Government's comments that: (i) due to the COVID-19 pandemic, the committees' functioning has been suspended since March 2020; and (ii) due to the lack of a statutory quorum, it has not been possible to reactivate the functioning of the tripartite committees even though the Ministry of Labour and Labour Development has called meetings. In its examination of the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee noted the reasons cited by the Government for the challenges to reactivating the functioning of the tripartite committees, including a dispute among trade unions. In addition, the Committee notes the observations of CONUSI, which alleges that such disputes have been generated by governmental policies that have been more favourable to other trade union organizations. ***Recalling the fundamental role that the two committees have played and should be able to continue to play in strengthening collective labour relations and achieving full application of the Convention, the Committee urges the Government to, in consultation with the social partners and with the continued technical support of the Office, take the necessary steps to review the policies applicable to the representation of the various trade union organizations on the tripartite committees with a view to reactivating their functioning in the near future. It also reiterates its invitation to the various state authorities to take duly into account the decisions of the committees in question. The Committee requests the Government to provide information in this respect.***

Article 1 of the Convention. Adequate protection against anti-union discrimination. The Committee recalls that in its previous comments it noted that a number of trade union leaders in the public sector whose reinstatement had been recommended by the Complaints Committee had yet to be reinstated. The Committee notes the Government's indication that of the 45 cases before the Complaints Committee concerning the reinstatement of trade union leaders: (i) five of them have been closed further to reinstatements and payment for lost wages; and (ii) in the remaining cases, some workers have already been reinstated or reassigned but there have been no payments for lost wages, with the exception of the workers of the Panama Fire Brigade. The Committee notes the Government's indication that: (i) the payment of lost wages is the subject of legal debate within the Government; (ii) various institutions have not provided information or have refused to follow up on the recommendations of the Complaints Committee; (iii) in some cases, the bodies are waiting for information from trade union organizations; and (iv) further progress is expected once the Higher Labour Council is established. In this respect, the Committee notes the Government's information with regard to Convention No. 87 that there are plans for the discussion in the National Assembly of a Bill on the establishment of this Council as of July 2022. ***The Committee once again requests the Government to take the necessary measures to ensure that all the trade union leaders referred to in Agreement No. 4 of the Complaints Committee are reinstated in their jobs as soon as possible and that the reinstatement complies with the terms of the Agreement.***

Articles 4 and 6. Right to collective bargaining. Pending legislative issues. The Committee was expecting the adoption, as soon as possible, of the preliminary Bill regulating collective labour relations in the public sector, harmonizing national legislation with the Convention and addressing the following pending legislative issues:

- the payment of wages for strike days attributable to the employer to be a matter for collective bargaining and not imposed by law (section 514 of the Labour Code);
- the requirement for the number of representatives of the parties in negotiation to be between two and five (section 427 of the Labour Code);
- the regulation of mechanisms for the settlement of legal disputes, and the possibility for employers to submit lists of demands and initiate a conciliation procedure; and
- the guarantee of the right to collective bargaining for public employees and public servants who are not engaged in the administration of the State.

The Committee notes with **regret** the information provided by the Government that it was not possible to advance in the National Assembly with the Bill on collective labour relations in the public sector owing to the political agenda of groups of legislators and the opposition of some trade union organizations, which had already been part of the consensus on the Bill, thereby making it necessary to resubmit a Bill for consideration by the National Assembly. In addition, the Committee welcomes the Government's information relating to the conclusion of the first collective agreement in the public sector (excluding those of the Panama Canal Authority) in June 2019 between the University of Panama and the National Union of Workers of the University of Panama (SINTUP), even though the legislative measures on this matter have not yet been adopted. The Committee notes that the Government trusts that once the Higher Labour Council is established and operational, more favourable conditions will be created to move forward with the adoption of necessary reforms and legislation in order to resolve the pending legislative issues. **The Committee urges the Government to, without delay and in consultation with the social partners, take measures to harmonize the legislation with the Convention, including the adoption of legislation on collective labour relations in the public sector and the pending legislative issues relating to the Labour Code. The Committee requests the Government to provide information on the progress made in this respect and reminds it that it may avail itself of the technical assistance of the Office.**

Application of the Convention in practice. Collective bargaining in the maritime sector. The Committee previously requested the Government to report on the number of collective agreements concluded in the maritime sector. The Committee notes the Government's information that the collective agreements in question fall within the activity of "transport, storage and postage", in line with the corresponding statistical classification. The Committee notes that 280 collective agreements were concluded from March 2018 to 2022, covering a total of 180,532 workers in that period. The Committee notes that of the agreements mentioned, 33 relate to the activity of "transport, storage and postage", but that it is not possible to identify the ones that relate specifically to the maritime sector. **In the light of the foregoing, the Committee requests the Government to continue to provide statistical information relating to the number of collective agreements concluded in the country, including the sectors of activity and the number of workers covered, and identifying those that relate specifically to the maritime sector.**

Papua New Guinea

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1976)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Legislative matters. In its previous comments, the Committee had noted the Government's indication that the new Industrial Relations Bill (IRB 2014) was undergoing a vetting process at the Government Executive Committee and the Central Agency and Consultative Council to harmonize it with other relevant legislation and that the revised Bill should be presented to Cabinet before November 2016 or early 2017 and consultations on the matter should be held in the national Tripartite Consultative Council. **Noting that the last information sent by the Government through an anticipated report dates back to 5 January 2017 and that its 2018 report was not received, the Committee hopes that the Government will provide in its next report information on the outcome of these consultations and whether the IRB 2014 has been enacted.**

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. The Committee had previously requested the Government to provide information on the measures taken to ensure effective implementation of the prohibition of anti-union discrimination in practice and to provide statistics on the number of anti-union discrimination complaints brought before the competent authorities, their follow-up,

sanctions and remedies imposed. **Noting that the Government did not provide specific information in this regard, the Committee reiterates its previous request.**

Article 4. Promotion of collective bargaining. Power of the Minister to assess collective agreements on the grounds of public interest. The Committee had previously requested the Government to take the necessary measures to bring section 50 of the Industrial Relations Bill (2011) into conformity with the principle that the approval of a collective agreement may only be refused if it has a procedural flaw or does not conform to the minimum standards laid down by general labour legislation. While observing once again that the Government does not provide a copy of the Bill, the Committee takes note of the Government's indication that section 50 of the IRB 2014 has been amended and that under the revised version the Attorney General is not entitled to appeal against the making of an award on the grounds of public interest.

Compulsory arbitration in cases where conciliation between the parties has failed. While recalling that it had noted the conformity of section 78 of the IRB 2014, as described by the Government, with the Convention, the Committee notes that the Government has still not clarified the content of section 79 of the IRB 2014. **The Committee trusts once again that the Government, taking into account the Committee's comments, will ensure the full conformity of any revised legislation with the Convention. In this regard, the Committee encourages the Government to avail itself of the technical assistance of the Office, if it so wishes and requests it to provide detailed information on the process of revision of the Industrial Relations Bill.**

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Paraguay

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1962)

Previous comment

The Committee notes the observations of the Central Confederation of Workers – Authentic (CUT-A) received on 30 August 2022, which refer to matters examined in the present comment, and which mention that the Government report does not reflect a tripartite approach due to its very late receipt by the CUT-A. The Committee also notes the observations of the International Trade Union Confederation (ITUC) alleging violations of freedom of association and collective bargaining in various sectors, including the health and public sectors, received on 1 September 2022. The Committee observes that the Government has not responded to the observations of the ITUC from 2010 and 2015, in connection with the arrest of trade unionists, dismissals, anti-trade union transfers and the refusal of the Government to register certain trade union organizations. **The Committee requests the Government to provide its comments in respect of the above-mentioned allegations and observations.**

Articles 2 and 3 of the Convention. Pending legislative issues. The Committee recalls that for many years it has been highlighting the inconsistency of certain provisions of the Labour Code with the Convention, specifically in respect of:

- the requirement of an unduly large number of workers (300) to establish a branch trade union (section 292);
- the prohibition on joining more than one union, whether at the level of the enterprise or industry, occupation or trade, or institution (section 293(c));
- the imposition of unduly demanding conditions of eligibility for office on the executive committee of a trade union (section 293(d) and 298(a));
- the requirement for trade unions to respond to all requests from the labour authorities for consultations or reports (sections 290(f) and 304(c));

- the obligation to provide a minimum service in the event of a strike in public services that are essential to the community without any requirement to consult the employers' and workers' organizations concerned (section 362); and
- the requirement that, for a strike to be called, its sole purpose must be directly and exclusively linked to the workers' occupational interests (sections 358 and 376(a)).

The Committee recalls that in its previous observation, it noted the Government's indication that it had requested ILO technical assistance and was recruiting an expert to formulate a draft bill to bring the Labour Code into line with ratified Conventions relating to freedom of association. The Committee **regrets** to note the Government's indication that no such bill has yet been drafted. The Committee also notes, from the observations of the CUT-A, that no progress has been made in respect of the measures adopted by the Government regarding pending legislative questions. **The Committee urges the Government, in consultation with the social partners, to take the necessary measures to align the Labour Code with the Convention. The Committee requests the Government to report on progress made in this respect and recalls that the Government may avail itself of ILO technical assistance.**

The Committee recalls that the application of the percentages established in section 292 of the Labour Code could result in a requirement of up to 100 workers to establish a trade union in institutions of up to 500 employees and a requirement of an even higher number of members for public institutions with a large number of workers. The Committee notes the information provided by the Government that there are trade unions in all public institutions, some with one and others with more than ten unions. It also notes the Government's indication that it considers it better to maintain section 292 as it stands, in order to avoid trade union fragmentation. The Committee further notes the observations of the CUT-A, indicating the absence of consultations between the Government and the social partners on this subject. The Committee recalls that mechanisms exist to avoid trade union fragmentation and, at the same time, to safeguard the right of workers to establish organizations of their own choosing. **In light of the above, the Committee once again requests the Government to hold consultations with the social partners with a view to ensuring that section 292 of the Labour Code does not, in effect, undermine the right of workers in the public sector to establish organizations of their choosing. The Committee requests the Government to provide information in this respect.**

The Committee welcomes the Government's indication that a technical legal team has been appointed in the Ministry of Education and Sciences to work on a proposal to amend section 38 of the Teachers' Statute, which establishes that teachers must have been registered for five years in order to qualify for trade union leave, to bring the provision into compliance with Article 3 of the Convention. **The Committee expects that these amendments will be completed without delay, in consultation with the social partners. The Committee requests the Government to communicate information on all progress achieved in this respect.**

Compulsory arbitration. The Committee recalls that in its previous comments it noted that sections 284 and 320 of the Code of Labour Procedure regarding referral of collective disputes to compulsory arbitration are not applied in practice, since they have been tacitly repealed by section 97 of the Constitution of the Republic of Paraguay, which establishes that arbitration shall be optional. **Observing that the Government reports no specific progress on this subject, the Committee once again requests, in the light of the provisions of the Constitution of Paraguay and in order to avoid all possible ambiguity in interpretation, that the Government take the necessary measures to amend or repeal expressly the above-mentioned provisions of the Code of Labour Procedure.**

Registration in practice of trade unions and their executive committees. The Committee notes the Government's reply to the CUT-A observations of 2018 to the effect that the executive committee of the ESSAP – SITUE United Workers' Union was registered on 3 August 2020. The Committee notes the information provided by the Government on the number of workers affiliated to trade unions in the 2018-2020 period, in the public sector (110,881) and in the private sector (36,388). The Committee also

notes the information disaggregated by sex of members holding positions on the executive committees of trade unions from 2018 to date by sector, public (5,774 men and 2,907 women) and private (5,338 men and 1,060 women). The Committee further notes that the application of the new online registration system for trade unions did not function as foreseen, since the trade unions opted for the in-person system. The Committee notes from the statistical data provided by the Government that from 2018 to 2022, a total of 16 trade unions were provisionally registered and 107 trade unions registered their executive committees. The Committee takes due note of the measures adopted and information provided by the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1966)

Previous comment

The Committee notes the observations of the Central Confederation of Workers Authentic (CUT-A) received on 30 August 2022, which refer to matters considered in the present comment. The Committee also notes the observations of the International Trade Union Confederation (ITUC) alleging anti-trade union dismissals, including that of the Chairperson of the National Union of Doctors and in the education sector, as well as other restrictions to freedom of association and collective bargaining in the health and public sector, received on 1 September 2022. **The Committee requests the Government to provide its comments in this respect.**

The Committee also takes note of the information provided by the Government on the adoption of measures to address the COVID-19 pandemic, such as a rapid resolution system for labour disputes, including mediation hearings by telephone and digital means.

Articles 1 to 3 of the Convention. Pending legislative matters. The Committee recalls that, since the adoption of Act No. 213 of 1993 establishing the Labour Code, it has been highlighting the lack of compliance of various provisions of the Labour Code with the Convention. The specific issues are: (i) the absence of legal provisions affording protection to workers who are not trade union leaders against all acts of anti-union discrimination; (ii) the absence of adequate and sufficiently dissuasive penalties for non-observance of the provisions relating to the employment stability of trade union officers and mutual interference between workers' and employers' organizations; and (iii) the delays in the application of justice in relation to acts of anti-union discrimination and interference. The Committee notes with **regret** the Government's indication that to date no preliminary draft has yet been formulated bringing the Labour Code into conformity with the ratified Conventions on freedom of association. In this regard, the Committee notes the observations of the CUT-A indicating the absence of information regarding measures adopted by the Government to address pending legislative matters. **Observing that the Government provides no information on any specific progress regarding measures taken to bring the Labour Code into conformity with the Convention and recalling that it has been requesting legislative reform since 1994, the Committee urges the Government, in consultation with the social partners, to take the necessary measures to ensure full conformity of the legislation and national practice with the requirements of Articles 1 to 3 of the Convention. The Committee requests the Government to keep it informed of progress made in this regard and recalls that the Government can avail itself of the technical assistance of the Office in this regard.**

Articles 1 and 6. Public servants not engaged in the administration of the State. The Committee recalls that it has been requesting the Government to take the necessary measures to guarantee adequate legislative protection against acts of anti-union discrimination for public servants and public employees covered by the Convention since 2004. The Committee notes the Government's indication that the Constitution protects all public servants from trade-union discrimination (sections 88 and 102). Equally, section 49 of Act No. 1626/2000 provides that public servants may file administrative appeals and take legal proceedings in defence of the right, without any discrimination, to equality of opportunity and

treatment in their position. The Committee also notes the adoption of Act No. 6715/2021 on administrative procedures, in force since September 2022 which: (i) regulates the procedures for administrative appeals and the procedure for sanctions; (ii) applies to all State bodies and entities with administrative functions; and (iii) includes among its objectives the respect for fundamental rights. The Committee observes that, although the administrative appeals filed by public official in defence of their rights, such as the summary administrative procedures to be followed for the dismissal of a public official protected by trade union employment stability (section 63 of Act No. 1626/2000), guarantee the rights of the public official in conformity with Act No. 6715/2021, the legal system, apart from the Constitution, does not specifically include protection against acts of anti-union discrimination for all workers in the public sector covered by the Convention, and does not provide sufficiently dissuasive penalties should those acts occur.

The Committee also notes the approval, through the adoption of Decision No. 516/2020, of the second Plan for Equality, Inclusion and Elimination of Discrimination, valid until 2024, which establishes mechanisms to address and penalise acts of discrimination occurring under the responsibility of the public institutions. The Committee further notes that the Secretariat of the Public Service (SFP) adopted the Protocol for action against workplace violence with a gender perspective (Decision SFP No. 387/2018 of 8 June 2018), which aims to prevent, provide guidance and resolve cases of workplace violence, including discrimination, in public institutions. The Committee observes that both the Plan and the Protocol define discrimination in a broad manner, without however referring explicitly to trade union affiliation or activities as a prohibited motive of discrimination. The Committee notes that the Protocol establishes different bodies, including a Standing Commission for Investigation (CPI), which is mandated to issue recommendations to the SFP and to take preventive action. The Committee observes that although the CPI may issue recommendations, including in respect of applicable penalties (verbal warnings, mandatory trainings, summary administrative procedures against the person responsible), those penalties are not sufficiently dissuasive, and could in practice fail to provide adequate protection against acts of anti-union discrimination.

The Committee also recalls that in its previous comment it requested the Government to supply information regarding the complaints of acts of anti-union discrimination made to the Transparency and Anti-Corruption Directorate under the action protocol and assistance guidelines for cases of labour discrimination and harassment in the public service (SFP Decision No. 415/16 of 30 May 2016). The Committee notes the observations of the CUT-A indicating the absence of measures adopted by the Government in respect of the Committee's earlier comments.

In light of the above, the Committee requests the Government to provide detailed information on the application of the Protocol for action against workplace violence with a gender perspective and the Plan for Equality, Inclusion and the Elimination of Discrimination with regard to the complaints concerning acts of anti-union discrimination against public servants and officials covered by the Convention, including the number of investigations undertaken and the penalties issued, as well as on other measures adopted in this respect. Observing that the Government provides no information in this connection, the Committee once again requests the Government to provide information regarding the complaints concerning acts of anti-union discrimination made to the Transparency and Anti-Corruption Directorate.

Observing with concern that the legislation applicable to public employees still fails to explicitly prohibit the acts of anti-trade union discrimination included in the Convention and that it has not received detailed information on the effectiveness of the multiple existing general mechanisms, the Committee urges the Government to take the necessary measures, in consultation with the social partners, to adopt legislative provisions that expressly prohibit anti-union discrimination in the public sector and establish mechanisms that guarantee all public sector workers covered by the Convention effective protection against acts of anti-union discrimination, including accessible, rapid and impartial

proceedings and sufficiently dissuasive remedies, and penalties. The Committee requests the Government to provide information in this respect.

Article 4. Promotion of collective bargaining in practice. Further to its previous comments, the Committee notes the Government's indication that the Ministry of Labour, Employment and Social Security (MTESS): (i) in 2021, through the Citizens' Channel (Canal Ciudadano), provided interactive training on collective bargaining; and (ii) launched an electronic procedure to facilitate the approval and registration of collective agreements. The Committee observes that four meetings of the Tripartite Consultative Council (CCT) were held, respectively in 2018, 2019, 2020 and 2021, noting in general terms that the 2018 meeting dealt with social dialogue and freedom of association. The Committee notes the statistics provided regarding the number of collective agreements registered in various sectors: six in 2017; three in 2018; eighteen in 2019; four in 2020; and four in 2022. ***The Committee invites the Government to continue to provide information on the activities of the CCT, in particular on the measures that are adopted, or are subject to dialogue, to encourage and promote collective bargaining. Observing on the one hand, that the statistics provided by the Government show a limited number of collective agreements negotiated, and on the other hand, that no details are included on how many agreements are in force, or the number of workers covered by agreements, the Committee requests the Government to continue providing information in this respect, specifying the sectors and the number of workers covered by collective agreements. Finally, the Committee requests the Government to continue providing information regarding the measures adopted in conformity with Article 4 of the Convention, to promote collective bargaining at all levels.***

Peru

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

Previous comment

The Committee notes the observations of the International Trade Union Confederation (ITUC), Autonomous Workers' Confederation of Peru (CATP), Coordination of Trade Union Confederations of Peru (which groups together the General Confederation of Workers of Peru, the Single Confederation of Workers of Peru, the CATP and the Confederation of Workers of Peru) received on 1 September 2022, which relate to matters examined by the Committee in the present comment, as well as allegations of anti-union persecution against trade union leaders and members. The Committee further notes the observations of the National Confederation of Private Business Institutions (CONFIEP), received on 1 September 2022 and relating to matters examined by the Committee in the present comment. The Committee notes the Government's response to all the observations received. The Committee notes the Government's response to the observations of the ITUC of 2017 and the CATP of 2018.

Legislative developments. The Committee notes that Presidential Decree No. 014-2022-TR, published on 24 July 2022, amends the Regulations of the Collective Labour Relations Act (LRTC) and observes, among other aspects, that the Decree:

- explicitly recognizes the right of workers to the direct membership of federations and confederations (section 4);
- explicitly recognizes the right to establish unions of "enterprise groups" and "production chains or subcontracting networks" (section 4);
- facilitates the collection of trade union contributions by federations and confederations by only requiring the accreditation of the respective membership, which shall be provided by the higher-level organization receiving the contribution (section 16-A);

- removes section 63 of the Regulations, which established a requirement not set out in the Act for the calling of strikes for the defence of labour rights (the presentation of the judicial ruling that has been accepted or become final);
- establishes the explicit prohibition for employers to replace, directly or indirectly, striking workers, and any act that impedes or obstructs the exercise of the right to strike;
- simplifies the documentary requirements for the administrative procedure of the notification of strikes, replacing the requirement to submit a legalized copy of the proceedings of the assembly in which the strike was decided upon, by the submission of a simple copy; and
- makes explicit reference to the administrative procedure for the notification of strikes, with the indication that it is an administrative procedure subject to prior assessment and is assumed to be approved if no objections are raised.

The Committee observes that the trade union confederations consider that the Decree can contribute to alleviating the serious situation with regard to trade union rights in the country and indicate, among other aspects, that the explicit recognition of the right to establish unions of enterprise groups, production chains and subcontracting networks can be particularly important for outsourced workers. The Committee also notes that the CONFIEP: (i) indicates that the Decree should have been subject to consultation in the National Labour and Employment Promotion Council (CNTPE) in accordance with the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144); and (ii) considers that the amendment of the LRCT Regulations by the Presidential Decree will affect relations between workers and employers in the private and public sectors and public enterprises since, among other aspects, it broadens the forms of trade union organization, makes the procedures more flexible for the establishment of a trade union organization and provides that employers cannot unilaterally extend the scope of the collective agreement to workers who are not covered by its scope of application, thereby necessarily promoting trade union membership. The Committee notes in this regard the Government's indication that, far from affecting the balance in collective relations between employers and workers, the Presidential Decree has its origins in the identification of the current worrying situation with regard to freedom of association in the country. The Government emphasizes in this respect that in 2021 the unionization rate at the national level was a mere 5 per cent and that over the past decade the number of unionized workers has grown more slowly than the number of non-unionized workers. The Government adds that, although the CNTPE, which is tripartite in composition, agreed in May 2022 to prepare a statement to reaffirm and reinforce social and labour dialogue, in the month of July 2022 the employers' organizations notified the suspension of their participation in the CNTPE, indicating that the approval of the statement on social dialogue referred to above had been impeded by the adoption of Presidential Decree No. 014-2022-TR. **Recalling the crucial importance of social dialogue and consultation with organizations of employers and workers for the preparation and development of legislation on collective labour relations, the Committee expresses the firm hope that the Government will ensure that such consultations are held. The Committee hopes that the concerns relating to the Presidential Decree will be duly addressed through tripartite social dialogue in the CNTPE and that any issues impeding the functioning of the CNTPE will be rapidly resolved. It requests the Government to keep it informed in this respect. The Committee also expresses the hope that the implementation of the Presidential Decree which, according to the Government, has its origins in concerns at the situation of freedom of association in the country, will contribute to ensuring the full enjoyment and exercise of the rights set out in the Convention and requests the Government to provide information on the impact of the Decree's application.**

Article 2 of the Convention. Right of all workers, without distinction whatsoever, to establish and join organizations. For several years, the Committee has been indicating to the Government the need to revise Act No. 28518, its Regulations and the General Education Act in order to ensure the explicit recognition of freedom of association in training schemes. The Committee notes the Government's

indication that on 13 April 2022, Ministerial Decision No. 092-2022-TR provided for the pre-publication of the preliminary draft of the Labour Code drawn up by the Ministry of Labour and Employment Promotion (MTPE), which defines in section 75 the arrangements for vocational training, such as special types of employment contracts, recognizing the labour element of such contracts. The Government indicates that it received comments and suggestions concerning the preliminary draft text from the public until June 2022, which were shared with the workers' and employers' representatives participating in the CNTPE. The Committee observes the indications by the trade union confederations that: (i) up to now there has been no initiative to amend Act No. 28518; (ii) the generic recognition in the Constitution of trade union rights does not on its own empower persons engaged in training schemes to exercise those rights; and (iii) section 76 of the preliminary draft indicates that vocational training arrangements are not covered by general labour regulations, which means that the preliminary draft text retains the characteristic of the current legislation of failing to offer specific recognition of the trade union rights of persons engaged under vocational training schemes. ***The Committee hopes that the preliminary draft of the Labour Code will be the subject of extensive tripartite consultation and that, during this process of dialogue, consideration will also be given to the adoption of specific measures to revise the legislation so as to set out the explicit recognition of the right to freedom of association of workers engaged under vocational training schemes. The Committee requests the Government to provide information on any progress achieved in this regard.***

In previous comments, the Committee requested the Government to revise the relevant provisions of the legislation to secure the exercise of the right to organize, in law and practice, of judges and prosecutors, and of employees in positions of trust and leadership in the public administration. The Committee requested the Government to provide information on any developments in this regard. The Committee notes with ***regret*** the Government's indication that it has noted the request for information which will be provided shortly. The Committee recalls that *Article 2* of the Convention guarantees the basic right to establish and join organizations of their own choosing to all workers without distinction whatsoever, including all public servants, irrespective of the nature of their functions, and that the only limitations permitted by the Convention are for members of the armed forces and the police. However, the Committee has indicated that senior public officials may be barred from joining trade unions provided they are entitled to establish their own organizations to defend their interests ([2013 General Survey on collective bargaining in the public service](#), paragraphs 43 et seq., and [2012 General Survey on the fundamental Conventions](#), paragraph 66). ***The Committee urges the Government to take the necessary measures to revise the relevant provisions of the legislation in order to secure the right to organize, in law and practice, of judges and prosecutors, and of employees in positions of trust or leadership in the public administration. The Committee requests the Government to provide information on any developments in this regard.***

Article 3. Right of organizations to organize their activities and formulate their programmes. Holding a strike ballot. In previous comments, the Committee noted that, under section 40 of Act No. 30057, the Civil Service Act, section 62, as amended, of the Regulations of the Consolidated Single Text of the Collective Labour Relations Act (the TUO of the LRCT), provides that the decision to call a strike must be adopted in the manner set out in the statutes, provided that the decision is taken by at least the majority of the voting members present in the assembly, and that this provision is applicable, by extension, to strikes in the public administration. The Committee notes that, although the trade union confederations indicate that Act No. 31188, the State Sector Collective Bargaining Act, published on 2 May 2021, repealed section 40 of the Civil Service Act, the Government indicates that subsection 13(2)(e) of Act No. 31188 provides that workers may call strikes in accordance with the provisions of the TUO of the LRCT.

Determining the unlawfulness of strikes. In its previous comment, the Committee observed that the Civil Service Support Commission was competent to decide whether a strike is inappropriate or unlawful and, as it had yet to be established, the Committee requested the Government to take the necessary

measures to ensure that the competence to determine the lawfulness of strikes, in both the private and public sectors, does not lie with the Government, but rather with an independent body that has the trust of the parties. The Committee notes the Government's indication that, while the body that is competent for determining the appropriate nature of a strike in the private sector is the Administrative Labour Authority, which issues its decision with independence, impartiality and in accordance with the law, the preliminary draft of the Labour Code proposes that, at the request of the employer or employers affected by the measures, the judicial authority shall determine the lawfulness or unlawful nature of a strike. With regard to the public sector, the Government recalls that, in accordance with the Tenth Supplementary Transitional Provision of the Regulations of the Civil Service Act, the Administrative Labour Authority shall assume the functions of the Civil Service Support Commission until the latter is established. The Committee observes that the trade union confederations consider that the fact that the Administrative Labour Authority continues to determine the lawful nature of strikes in both the private and the public sectors (in view of the persistent failure to establish the Civil Service Support Commission with guarantees of its real impartiality) bears witness to the reluctance of the State to bring the legislation into conformity with the provisions of the Convention and they indicate that 100 per cent of strikes in 2020 were found to be unlawful by the Administrative Labour Authority. ***The Committee urges the Government to take the necessary measures to ensure that the authority to determine the lawful nature of strikes in the private sector does not lie with the labour administration, but rather with an independent body that has the trust of the parties. The Committee hopes that the proposed amendment contained in the preliminary draft of the Labour Code will be the subject of extensive tripartite consultations, and requests the Government to keep it informed of any developments in this regard. Observing with concern the indications of the trade union confederations, the Committee expresses the firm hope that the Civil Service Support Commission will be established without further ado and that it will be a genuinely independent body. The Committee requests the Government to provide information on any progress in this regard.***

Definition of minimum services in essential public services. The Committee previously observed that the Consolidated Single Text of the Collective Labour Relations Act provided that the Civil Service Support Commission would be the competent body to determine the minimum services required during strikes affecting essential services, and it trusted that the Civil Service Support Commission would be established in the near future. The Committee notes the Government's indication that section 435 of the preliminary draft of the Labour Code provides that, in the event of disagreement, the matter shall be referred to an independent technical body for the determination of the minimum service and that the decision shall be binding. The Committee notes that, in addition to reiterating that the Civil Service Support Commission has still not been set up, the trade union confederations indicate that section 68 of the Regulations of the Collective Labour Relations Act, as amended by Presidential Decree No. 014-2022-TR, provides that, while the Administrative Labour Authority may avail itself of the support of an independent body to resolve any disagreement concerning minimum services in essential public services, the Administrative Labour Authority shall resolve the matter on the basis of the report of the independent body. ***While taking due note of the modifications introduced by Presidential Decree No. 014-2022-TR, the Committee recalls that disagreements between the parties on the number and functions of workers should not only be examined, but also resolved by an independent body. The Committee reiterates the need for the Civil Service Support Commission to be established without delay and requests the Government to provide information on any developments in this respect.***

Right of trade unions to hold meetings and to access workplaces. The Committee previously requested the Government to revise the final provisions of Presidential Decree No. 017-2007-ED, which defines as serious offences by head teachers and deputy head teachers in schools the acts of providing school premises for trade union meetings and allowing political and/or union advocacy in educational institutions, in order to enable head teachers of schools to determine with the trade unions arrangements for access to workplaces that do not jeopardize their efficient operation. The Committee

notes the Government's indication that the Ministry of Education is carrying out an assessment of the legislation in relation to this matter as a basis for determining the need to amend or repeal certain provisions of the Regulations of Act No. 28988 declaring regular basic education to be an essential public service, as approved by Presidential Decree No. 17-2007-ED. ***The Committee takes due note of these indications and requests the Government to provide information on any developments in relation to the revision of the final provisions of the above Presidential Decree so that head teachers in schools can agree with the trade unions concerned on an arrangement for access to workplaces that does not jeopardize their effective operation.***

The Committee reminds the Government that it may have recourse to ILO technical assistance in relation to the matters raised in this comment.

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1964)

Previous comment

The Committee notes the observations of the Autonomous Workers' Confederation of Peru (CATP), the International Trade Union Confederation (ITUC) and the Coordination of Trade Union Confederations of Peru (which groups together the General Confederation of Workers of Peru (CGTP), the Single Confederation of Workers of Peru (CUT-Peru), the CATP and the Confederation of Workers of Peru (CTP)), and the National Confederation of Private Business Institutions (CONFIEP), received on 1 September 2022, which relate to matters examined by the Committee in the present comment. The Committee notes the Government's response to all these observations. It also notes the Government's response to the CATP's observations of 2018.

Legislative developments. The Committee notes that Presidential Decree No. 014-2022-TR, published on 24 July 2022, amended the Regulations of the Collective Labour Relations Act (LRCT) and observes that, among other measures, the Decree:

- indicates that the protection of trade union rights also includes delegates of trade union chapters and the leaders of unions, federations and confederations, or representatives nominated by the latter, and the parties may agree through a collective agreement to extend the protection of trade union rights to other workers or increase their period of protection. Trade union representatives on social dialogue bodies are also covered by the protection of trade union rights (section 12).
- includes section 23-A specifying the scope of the judicial dissolution of a trade union due to the loss of the minimum number of members, with the indication that, for the calculation of the number of members, unionized workers who have been dismissed or whose dismissal has not yet been approved by the courts or who have denounced acts of anti-union discrimination to the labour inspection services are still taken into account.
- indicates that employers are not empowered to extend unilaterally the effects of the collective agreement to workers not covered by its scope of application (section 28).
- provides that, in the event of the dissolution of the trade union, the operative clauses of the collective agreement shall continue to apply (section 30).
- introduces section 33-A into the Regulations of the LRCT, with the indication that in the event of disagreement on the level of collective bargaining, alternative dispute resolution machinery may be used.

- specifies the scope of the right to information of trade unions for collective bargaining, and establishes the minimum level of information that shall be provided and the period within which the employer shall provide it (section 38).
- introduces section 40-A, setting out the minimum content of the requirement to negotiate in good faith provided for in section 54 of the LRCT.
- amends section 59 of the Regulations, to provide that a judicial appeal against an arbitration award does not suspend its application, unless so decided by the courts.
- amends section 61-A of the Regulations on the conditions governing compulsory arbitration.

The Committee notes that the trade union confederations consider that the Decree can contribute to mitigating the serious situation with regard to trade union rights. The Committee notes that the CONFIEP: (i) indicates that the Decree should have been referred for consultation to the National Labour and Employment Promotion Council (CNTPE), in accordance with the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144); and (ii) considers that the amendments to the Regulations of the LRCT will have an impact on labour relations between workers and employers. The CONFIEP indicates that “the list of information that shall be provided by the employer affects the protection of the personal data of workers; that collective bargaining by branch of activity is being promoted (required): trade unions are exclusively able to seek compulsory arbitration and it is provided that employers may not unilaterally extend the effects of the collective agreement to workers not included within its scope of application, thereby necessarily promoting trade union membership”.

The Committee notes the Government’s indication that, far from affecting the balance of industrial relations between employers and workers, the Presidential Decree has its origins in the observation of the worrying current situation of freedom of association in the country. The Government emphasizes that, in 2021, the unionization rate at the national level was a mere 5 per cent and that 4.42 per cent of workers in the formal private sector were covered by collective bargaining that year. The Government adds that in 2021, only 429 lists of claims were put forward, thereby maintaining the tendency for their number to decrease which commenced in the 1990s. The Government indicates that the number of claims that were resolved fell from 1,762 in 1990 to 186 in 2021. The Government further indicates that, although in May 2022 the CNTPE, with its tripartite composition, agreed to formulate a statement reaffirming and calling for the strengthening of social and labour dialogue, in July 2022 the employers’ organizations indicated that they were suspending their participation in the CNTPE claiming that the approval of the statement had been prevented by the adoption of Presidential Decree No. 014-2022-TR. ***Recalling the crucial importance of social dialogue and consultations with employers’ and workers’ organizations for the preparation and formulation of legislation on collective labour relations, the Committee firmly hopes that the Government will ensure that substantive tripartite consultations are held on legislative initiatives of this type. The Committee also hopes that any concerns relating to the Presidential Decree will be duly examined within the framework of tripartite social dialogue in the CNTPE and that any obstacles preventing the functioning of that body will be resolved rapidly. It requests the Government to provide information in this regard.***

Article 1 of the Convention. Adequate protection against anti-union discrimination. The Committee previously observed with concern that, despite the implementation of the Act on Labour Procedure of 2010, the duration of court proceedings relating to infringements of trade union rights had increased considerably, and it requested the Government to take measures to ensure that such proceedings are carried out swiftly and to provide information on their duration, and on the penalties imposed in cases of anti-union discrimination. The Committee notes with **regret** that the Government has not provided information on the duration of such proceedings and observes the claims by the trade union confederations that: (i) the Act on Labour Procedure is still not given effect throughout the national territory and the duration of labour proceedings continues to be very long, particularly when rulings are appealed, which is a strategy that is often used by employers; and (ii) complaints against trade union

representatives are a recurrent anti-union practice which create a climate of intimidation, as there is no appropriate administrative or judicial mechanism that protects members and leaders against anti-union practices.

The Committee notes that, according to the Government's report, during the period between 2017 and 2021, the National Superintendence of Labour Inspection (SUNAFIL) generated 2,886 inspection orders in relation to complaints concerning collective agreements and trade union membership and resolved 2,350 of them, with 964 resulting in a violation report and 1386 in a report. In this regard, the trade union confederations indicate that this information does not reveal the extent to which inspections identified violations of trade union rights in the inspection orders issued, whether they have the result of the effective restoration of trade union rights and whether the penalties were executed. They add that issues relating to trade union rights account for fewer than 2 per cent of all the matters on which inspections are carried out over a year and that in March 2021 the Labour Inspection Court of the SUNAFIL started to be operational, with the function of resolving appeals for the review of punishment procedures and that it is issuing decisions that do not contribute to the protection of trade union rights.

The Committee also observes that Presidential Decree No. 014-2022-TR provides that trade union protection also covers the delegates of trade union chapters and the leaders of unions, federations and confederations, or representatives nominated by them and that the parties may agree through collective agreements to extend the right to trade union protection to other workers or increase the duration of protection and include within such protection trade union representatives on social dialogue bodies. The Presidential Decree also provides that, for the calculation of the minimum number of members, unionized workers whose dismissals have not yet been confirmed by the courts or who have submitted complaints of anti-union acts to the labour inspection services will continue to be taken into account. The Committee notes the Government's indication that this prevents the use of unjustified anti-union dismissals as a strategy for persecuting trade union leaders and dissolving trade unions. The Government adds that a proposed preliminary draft of the Labour Code, prepared at the beginning of 2022 by the Ministry of Labour and Employment Promotion and shared through the CNTPE, adopts the same approach as the Presidential Decree. ***The Committee takes due note of this information, and particularly the aspects of Presidential Decree No. 014-2022-TR that are intended to reinforce protection against acts of anti-union discrimination. The Committee once again requests the Government to provide information on the length of labour proceedings relating to infringements of the right to freedom of association and collective bargaining and to take the necessary measures to ensure that they are carried out swiftly. It also requests the Government to provide detailed and updated information on the penalties imposed in cases of anti-union discrimination and any action adopted in this regard. Recalling that the labour inspection services contribute to ensuring the application of the Convention, the Committee requests the Government to take the necessary measures for the concerns set out above to be duly examined through social dialogue in the CNTPE, which should also assess the effectiveness of the system of protection against acts of anti-union discrimination and the impact of the application of Presidential Decree No. 014-2022-TR in this regard. The Committee requests the Government to report on these discussions and their outcome. The Committee also requests the Government to keep providing information about any progress made with regard to the preliminary draft of the Labour Code.***

Workers with fixed-term contracts in the private sector. The Committee previously requested the Government to provide information on any measures taken by the labour inspection services to ensure the effective protection of workers with fixed-term contracts against the potential non-renewal of their contracts for anti-union reasons. It also invited the Government to use the tripartite forum of the CNTPE to examine this issue and the possibility of amending the provisions of the Act on the Promotion of Non-Traditional Exports, which allow for the recurrent use of short-term contracts. The Committee notes the Government's indication that the proposed preliminary draft of the Labour Code seeks to harmonize

the labour legislation and reduce the use of fixed-term contracts and that it proposes the possibility of concluding contracts of different types with the same worker, provided that in total they do not exceed a maximum period of two years. The Committee observes the indication by the trade union confederations that: (i) the non-renewal of contracts tends to be used as a reprisal for trade union membership and engagement in trade union activities; (ii) in the area covered by the Act on the Promotion of Non-Traditional Exports, contracts can be renewed without any limits; (iii) in 2021, 91.2 per cent of new contracts in the country were for fixed-term jobs; and (iv) the legislation does not provide any type of protection for workers against the failure to renew temporary contracts as a reprisal against union membership and engagement in union activities. The Committee recalls that, when examining cases relating to this issue (in particular Cases Nos 3065, 3066 and 3170), the Committee on Freedom of Association has recalled that fixed-term employment contracts should not be used deliberately for anti-union purposes and that in certain circumstances the employment of workers with the successive renewal of fixed-term contracts for several years can be an obstacle to the exercise of trade union rights.

Taking into account the indications relating to the high percentage of fixed-term contracts and the concerns expressed above, the Committee requests the Government to submit the issue of the protection of workers with fixed-term contracts against anti-union discrimination for thorough tripartite consultation in the CNTPE with a view to the identification of specific measures in this regard. Recalling that in the cases examined by the Committee on Freedom of Association, the Government referred to the possibility of revising the provisions of the Act on the Promotion of Non-Traditional Exports which allow the recurrent use of short-term contracts, the Committee once again invites the Government to include this issue in tripartite consultations and the current process of reforming the labour legislation. The Committee requests the Government to provide information on these discussions and their outcome.

Workers with fixed-term contracts in the public sector. Having noted the allegations of the mass dismissal of workers employed under administrative service contracts, the Committee previously requested the Government to engage in dialogue with public sector trade unions on the subject of the protection of these workers against anti-union discrimination. The Committee notes the information provided by the Government that: (i) Act No. 31131 containing provisions to eradicate discrimination in public sector scheme, published on 9 March 2021, prohibits administrative service contracts and provides that workers covered by such contracts are to be engaged under the system set out in Legislative Decree No. 728 (the Labour Productivity and Competitiveness Act) and Legislative Decree No. 276 (the Basic Act on the administrative career and remuneration in the public sector); (ii) workers recruited as from 10 December 2021 who were covered by administrative service contracts benefit from permanent contracts, on condition that they have participated in a public competition for a permanent position, although personnel may be engaged under administrative service contracts for a fixed period if they are engaged as replacements or in transitional positions; and (iii) there are various unions covering this group of workers and public employees covered by administrative service contracts were represented in the negotiations relating to Act No. 31188. The Committee observes the indication by the trade union confederations that: (i) although Act No. 31131 establishes that administrative service contracts are for an indefinite period, a new form of temporary and irregular contract is being increasingly used known as third party contracts; and (ii) in 2020, over 127,000 persons were engaged through the hiring of services and in the majority of cases these were labour relations covered by apparent third party contracts under which the workers could not exercise their trade union rights as the reprisal would be the non-renewal of their contracts. ***While welcoming the legislative measures adopted in relation to administrative service contracts, and noting the concerns expressed above, the Committee requests the Government to submit the issue of protection against anti-union discrimination of workers who do not have permanent contracts for thorough consultation with the representative trade unions in the public sector. It requests the Government to report on these discussions and their outcome.***

Article 4. Promotion of collective bargaining. Workers in training schemes. In its previous comment, the Committee noted that the Government was engaged in the adoption of an Act on specific public sector pre-vocational and vocational practices and that it was revising the content of Act No. 28518 with a view to explicitly recognizing the right to collective bargaining of workers in training schemes. The Committee notes the Government's indication that the preliminary draft text of the Labour Code prepared by the Ministry of Labour and Employment Promotion defines vocational training schemes in section 75 as special types of labour contracts, thereby recognizing them as labour contracts, which presupposes the possibility for workers engaged in vocational training schemes to have the right to establish trade unions and engage in collective bargaining. The Committee observes the indication by the trade union confederations that: (i) up to now, no initiative has been seen to amend Act No. 28518; (ii) the general recognition in the Constitution of trade union rights does not on its own entitle persons covered by training schemes to exercise such rights; and (iii) section 76 of the preliminary draft text referred to above provides that labour training schemes are not subject to general labour regulations, or in other words the preliminary draft maintains the approach adopted in the current legislation of not explicitly recognizing the trade union rights of workers in training schemes. ***The Committee hopes that the preliminary draft text of the Labour Code will be the subject of thorough tripartite consultation and that, within the context of this dialogue process consideration will also be given to the revision of the legislation to give explicit recognition to the collective rights of workers in training schemes. The Committee requests the Government to report any progress in this regard.***

Promotion of collective bargaining at all levels. The Committee recalls that the issue of the right of the parties to determine freely the level of negotiation has been the subject of its attention for many years and has given rise to a series of cases before the Committee on Freedom of Association. The Committee observed previously that, under the terms of section 45 of the LRCT, in the event of disagreement between the parties and where a collective agreement does not exist, the legislation gave precedence to negotiation at the enterprise level, and it requested the Government to engage in consultations with the representative organizations of workers and employers on the amendments necessary to ensure that the level of collective bargaining and the mechanism for the settlement of disputes relating to the level at which collective bargaining must take place are determined freely by the parties concerned. The Committee notes with ***interest*** the indication by the Government that Act No. 31110 on the Agricultural Labour System and Incentives for the Agricultural and Irrigation Sector, Agricultural Exports and Agro-Industry, which entered into force on 1 January 2021, removed that last indent of the first paragraph of section 45 of the Regulations of the LRCT, which provided that, in the absence of agreement on the level of negotiation, it would take place at the enterprise level. The Committee observes that the amended version of section 45 provides that, in the event of disagreement concerning the level of negotiation, the matter shall be resolved through the use of alternative dispute resolution machinery. The Committee notes the indication by the trade union confederations that the second subsection of section 45 has not been amended and that it provides that, once the level of negotiation has been determined, it may only be changed with the agreement of the parties, with no alternative machinery being envisaged to resolve any disagreement concerning the modification of the level of negotiation. The trade union confederations understand this as impeding collective bargaining at levels other than the enterprise level. The Committee notes the Government's clarification that the amendment covers both the first and second subsections of section 45, which means that, in the event of disagreement on the level of bargaining, either in relation to new collective bargaining or if there is already an agreement at some level, the disagreement may be resolved through the use of alternative dispute resolution machinery. ***The Committee requests the Government to provide information on the impact of the amendment to section 45 of the Regulations of the LRCT on collective bargaining. The Committee hopes that the Government will ensure that the autonomy of the parties prevails in the determination of the level of bargaining.***

The Committee also observes that Act No. 31110 promotes in the agricultural and agricultural export sector the collective right to collective bargaining, particularly at levels higher than the enterprise level, as workers in agriculture and agricultural exports experience difficulties in the effective exercise of this right due to the discontinuous and seasonal nature of their activities (section 8). Recalling the need to guarantee that collective bargaining can be carried out at any level, whether at the level of the enterprise, multiple-enterprises, the sectoral or national level, and noting the statistical data provided by the Government, as referred to above, according to which there is very low coverage of collective bargaining in the country, the Committee notes with **interest** that legislative measures have also been adopted to promote collective bargaining at levels higher than the enterprise level. **The Committee requests the Government to report the specific measures taken to promote collective bargaining at all levels, including higher than the enterprise level, and to provide information on the results.**

Recourse to arbitration (arbitraje potestativo) in the event of disagreement on the level of bargaining and in relation to other situations. The Committee observed in previous comments that the LRCT and its Regulations provide for the possibility for any of the parties to collective bargaining to have recourse to arbitration (*arbitraje potestativo*) in the event that: (i) during a first negotiation, agreement is not reached on its level or content (where at least six direct negotiation or conciliation meetings have been held and three months have elapsed since the beginning of the negotiations); or (ii) where during the course of bargaining acts of bad faith are noted which have the effect of delaying, hindering or preventing the achievement of agreement. The Committee observes that Presidential Decree No. 014-2022-TR introduces certain amendments to the Regulations concerning the possibility of having recourse to arbitration (*arbitraje potestativo*): (i) it provides that this possibility is only available to workers' representatives; (ii) the conditions for initiating arbitration (*arbitraje potestativo*) in the first circumstances envisaged by the Regulations (a first negotiation, in which the parties do not reach agreement on the level or content of the negotiations) are not cumulative, but rather alternatives (since at least six direct negotiation or conciliation meetings must have been held, or three months must have elapsed since the beginning of the negotiations); and (iii) in relation to point (i), it is specified that the acts of bad faith in the negotiations which may give access to arbitration (*arbitraje potestativo*) are those committed by the employer.

The Committee notes the indication by CONFIEP that the Presidential Decree exclusively allows workers' organizations to request compulsory arbitration and omits the principal option of arbitration that is voluntary for the parties. The CONFIEP considers that establishing the compulsory nature of arbitration has the result of collective bargaining processes becoming a formal step, as there is an incentive to go to arbitration (*arbitraje potestativo*) so that the arbitration board awards better economic benefits to the workers, without giving importance to the fact that in some cases the financial situation of the enterprise would not permit this. The Committee notes the Government's indication in this respect that: (i) section 62 of the LRCT provides that workers may either call a strike or have recourse to arbitration; and (ii) arbitration (*arbitraje potestativo*) when initiated by the employer runs the potential risk of affecting the right to strike, as there could be situations in which strikes called by workers and arbitration (*arbitraje potestativo*) initiated by the employer may run in parallel, thereby undermining recourse to strike action.

The Committee recalls that it has considered that compulsory arbitration is only acceptable in certain specific circumstances, namely: (i) in essential services in the strict sense of the term, that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population; (ii) in the case of disputes in the public service involving public servants engaged in the administration of the State; (iii) when, after protracted and fruitless negotiations, it becomes obvious that the deadlock will not be broken without some initiative by the authorities; or (iv) in the event of an acute crisis. The Committee also recalls that, while arbitration imposed by the authorities at the request of one party is generally contrary to the principle of the voluntary negotiation of collective agreements, it can envisage an exception in the case of provisions allowing workers' organizations to initiate such a

procedure for the conclusion of a first collective agreement. As experience shows that first collective agreements are often one of the most difficult steps in establishing sound industrial relations, these types of provisions may be considered to constitute machinery and procedures intended to promote collective bargaining (2012 General Survey on the fundamental Conventions, paragraphs 247 and 250). **Observing that, in a context of the very low coverage of collective bargaining, Presidential Decree No. 014-2022-TR has made certain of the conditions more flexible for workers to be able to have recourse to arbitration, in the case of a first negotiation or where bad faith has been demonstrated by the employer, the Committee requests the Government to: (i) provide full information on the application of these new provisions so that the Committee can assess their impact on the free and voluntary nature of collective bargaining and its effective promotion; and (ii) engage in thorough dialogue with the representative social partners in the country on the application of these provisions and on any other measures envisaged in this regard.**

The Committee notes that section 28 of Presidential Decree No. 014-2022-TR provides that the employer may not unilaterally extend the effects of the collective agreement to workers not covered by its scope of application. The Committee observes that the CONFIEP considers that this section is intended to punish non-unionized workers by promoting the necessity of trade union membership. The Committee notes the Government's indication that this view disregards section 9 of the LRCT, which provides that: "In relation to collective bargaining, the union which has in its membership the absolute majority of workers in the area covered shall represent all of those workers, even if they are not members. Where several unions exist in the same area, unions which jointly have over half the workers as members may jointly represent all the workers. In such cases, the unions shall determine the manner in which they exercise such representation, either pro rata in proportion to the number of members or entrusted to one of the unions. If there is no agreement, each union shall solely represent its own members." The Committee notes these indications. The Committee recalls that systems under which the collective agreements concluded by the representative organization only apply to the signatories and their members (and not to all workers), and the opposite practice under which all the workers in a bargaining unit are covered, are compatible with the principles of the Convention (2012 General Survey on the fundamental Conventions, paragraph 225). The Committee further observes that the amendment introduced by Presidential Decree No. 014-2022-TR does not appear to preclude the parties from being able to decide themselves on the extension of the effects of the collective agreement to include workers who are not members of the union that negotiated the agreement.

Articles 4 and 6. Promotion of collective bargaining. Public sector workers. The Committee previously indicated to the Government the need to revise the Civil Service Act of 2013 and all relevant legislation, so that public sector employees who are not engaged in the administration of the State can exercise their right to collectively negotiate wages and economic matters. The Committee notes the publication on 2 May 2021 of Act No. 31188 on collective bargaining in the State sector, which establishes rules for the exercise of the right to collective bargaining in the public sector and provides that bargaining may cover all types of working and employment conditions, including remuneration and other conditions of work with an economic impact, as well as any aspect respecting relations between employers and workers, and relations between employers' and workers' organizations. The Committee observes that the Act repeals various provisions of the Civil Service Act, including sections 42, 43 and 44, which completely excluded the determination of wages and economic matters from collective bargaining throughout the public sector. The Committee notes that, according to the information provided by the Government: (i) Presidential Decree No. 008-2022-PCM was published on 20 January 2022 approving guidance for the implementation of the Act; (ii) the Act on the budget for the public sector for the 2022 financial year admits the financial increase agreed collectively; and (iii) the Centralized Collective Agreement 2022-23 was concluded on 30 June 2022, including very important benefits for all State workers (with the exception of public servants on special career paths in health and education, who will engage in decentralized sectoral bargaining). The Committee notes with **satisfaction** the conclusion of

the Centralized Collective Agreement. The Committee notes the indication by the workers' confederations that, although the Act constitutes progress in the recognition and effectiveness of the economic negotiation of all types of terms and conditions of employment for public employees, difficulties have been reported in its application. ***The Committee requests the Government to take the necessary measures to ensure that the Act and its respective Presidential Decree are implemented in such a manner as to contribute to ensuring the full and complete exercise by trade union organizations of State workers of the rights recognized therein and set out in the Convention. It requests the Government to provide information on the impact of their application. The Committee also refers to its comments in relation to the Labour Relations (Public Service) Convention, 1978 (No. 151).***

The Committee firmly hopes that the action taken by the Government to give effect to the Convention will be preceded by thorough consultations with the social partners. The Committee recalls that ILO technical assistance is available to the Government.

Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 1980)

Previous comment

The Committee notes the observations of the Coordination of Trade Union Federations of Peru (which brings together the General Confederation of Workers of Peru (CGTP), the Single Confederation of Workers of Peru (CUT-Perú), the Autonomous Workers' Confederation of Peru (CATP) and the Confederation of Workers of Peru (CTP)), received on 1 September 2022, which concern issues that the Committee examines in this comment. The Committee notes the Government's reply in this respect.

Article 7 of the Convention. Participation of public employees' organizations in the determination of their terms and conditions of employment. Having noted with concern that the Civil Service Act No. 30057 (LCS) of 2013 contained provisions that excluded any machinery for participation, including collective bargaining, in the determination of matters relating to wages or with financial implications throughout the public sector, the Committee requested the Government to take the necessary measures to bring the legislation into conformity with the Convention, in order to ensure the existence, with regard to officials engaged in the administration of the State, of machinery for participation in the determination of their terms and conditions of employment, including remuneration and other subjects with financial implications. The Committee notes the Government's indication that Act No. 31188 on collective bargaining in the public sector was published on 2 May 2021, which seeks to regulate the exercise of the right to collective bargaining of trade union organizations of state workers, and which includes all public employees engaged in the administration of the State. The Committee notes with **satisfaction** the adoption of the Act and observes that it:

- establishes rules for the exercise of the right to collective bargaining in the public sector, and indicates that bargaining may comprise all types of work and employment conditions, including remuneration and other work conditions with financial implications, and any aspect relating to relations between employers and workers, and relations between employers' and workers' organizations; and
- repeals various sections of the LCS, including sections 42, 43 and 44, which completely excluded collective bargaining in the determination of matters relating to wages or with financial implications throughout the public sector.

The Committee notes the Government's indication that: (i) Supreme Decree No. 008-2022-PCM approving guidelines for the implementation of Act No. 31188, was published on 20 January 2022; (ii) the Act on the public sector budget for the fiscal year 2022 recognizes the financial increase agreed collectively; and (iii) a centralized collective agreement for 2022-23 was signed on 30 June 2022, which established significant agreements in favour of all state workers (with the exception of public servants on special career paths in health and education, who will bargain at the decentralized level within the

sectors). The Committee noted with satisfaction the signing of this collective agreement in its comment on the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

The Committee notes the indication of the trade union confederations that: (i) while the Act represents progress in the recognition and effectiveness of the financial negotiation of all types of employment conditions for public employees, difficulties relating to its application have been reported; (ii) even though the Act gives broad recognition to the right to collective bargaining, the Supreme Decree contains provisions that may affect collective bargaining, such as the possibility for employers to reject a list of demands if they consider that a trade union is not representative; (iii) public entities face the challenge of adopting effective measures to implement the Act, and, in this regard, the implementation of a national register of trade union membership to verify representativity remains pending; and (iv) the National Civil Service Authority (SERVIR) has issued binding decisions that contain a restrictive interpretation of the Act. The Committee notes the Government's indication that, through its Executive Board, SERVIR aims to create and implement a space for trade union dialogue, to continuously and effectively address the demands of trade union organizations, by directing support and assistance to entities through the provision of creative and flexible solutions that bridge existing gaps and address labour demands, thus guaranteeing the optimization of services and products provided to the public. ***The Committee strongly encourages the Government to implement, within SERVIR, a space for dialogue in which the aforementioned concerns can be addressed, including the implementation of a reliable mechanism to verify trade union representativeness in collective bargaining. The Committee requests the Government to take the necessary measures to ensure that both the Act and the Supreme Decree are implemented in a manner that effectively guarantees, for all public employees engaged in the administration of the State who are covered by the Act, the full enjoyment and exercise of the rights recognized in these instruments and enshrined in the Convention. The Committee requests the Government to provide information on the impact of their application. The Committee also reminds the Government that the technical assistance of the Office is at its disposal.***

The Committee is raising other matters in a request addressed directly to the Government.

Philippines

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1953)

Previous comment

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022, referring to matters addressed below and alleging continued and serious violations of workers' civil liberties and freedom of association rights. ***The Committee requests the Government to provide its reply thereto.***

Tripartite road map to implement the 2019 Conference Committee conclusions and achieve full compliance with the Convention. High-level tripartite mission. The Committee recalls from its previous comments that in June 2019, the Conference Committee on the Application of Standards (Conference Committee) requested a high-level tripartite mission to the country, which, until early 2022, could not take place due to the COVID-19 pandemic. In the meantime, a virtual exchange was organized by the Office between the Government, national social partners and designated representatives from the workers' and employers' groups of the Conference Committee in order to clarify any outstanding confusion in respect of the Conference Committee's conclusions and to assist the Government and the social partners to take effective action for their implementation. In these circumstances, and in light of the conclusions of the virtual exchange transmitted by the ITUC, the Committee called on the Government to elaborate a plan of action, in consultation with the social partners, detailing progressive

steps to be taken to implement the conclusions of the 2019 Conference Committee and to achieve full compliance with the Convention.

The Committee notes the Government's indication in this respect that it has consistently conveyed its readiness to accept an in-person high-level tripartite mission to the country and that such a mission was scheduled for May-June 2022 but did not take place due to a change in political administration following the May 2022 presidential elections. The Government, however, confirms its availability to receive a mission in January-February 2023 and informs that, in the meantime, it has scheduled to undertake activities to implement some of the recommendations of the virtual exchange, including capacity-building of regional tripartite monitoring bodies (RTMBs), development of a tripartite road map on the promotion of freedom of association and civil liberties, and review of the Guidelines on the conduct of stakeholders relative to the exercise of workers' rights and activities, all of which will be pursued through the institutionalized tripartite processes. The Government adds that the tripartite road map will take into account the recommendations of the 2021 virtual exchange report, as well as the 2019 Conference Committee conclusions, and will focus on efforts to ensure prompt and effective investigation of allegations of killings and assaults against trade unionists, strengthen tripartite monitoring bodies, further operationalize the Administrative Order No. 35 Inter-Agency Committee (IAC) and ensure effective protection of labour rights in ecozones. ***Taking due note of the measures and initiatives undertaken, but also noting the concerns raised by the ITUC that no progress has yet been achieved to implement the conclusions of the 2019 Conference Committee, the Committee calls on the Government to rapidly and genuinely engage with the social partners in order to elaborate a constructive tripartite road map detailing progressive steps to be taken to implement the conclusions of the 2019 Conference Committee and to achieve full compliance with the Convention. The Committee looks forward to receiving the road map, as well as the reviewed Guidelines on the conduct of stakeholders, and expects both instruments to significantly contribute to addressing in a meaningful manner the long-standing concerns of serious violations of civil liberties in the exercise of freedom of association rights. The Committee reminds the Government of the possibility to avail itself of ILO technical assistance in this regard. The Committee also expects that the high-level tripartite mission requested by the 2019 Conference Committee will be able to visit the country in the first quarter of 2023, as suggested by the Government, and will be allowed to meet freely with a broad range of interlocuters.***

Civil liberties and trade union rights

In its previous comments, the Committee had received repeated allegations of serious violations of basic civil liberties in the exercise of trade union rights submitted by the ITUC in 2019, 2020 and 2021, Education International (EI) in 2019 and jointly by EI, the Alliance of Concerned Teachers (ACT) and the National Alliance of Teachers and Office Workers (SMP-NATOW) in 2020. The Government had previously replied to some of these incidents and the Committee had, on several occasions, requested it to ensure that these allegations are duly investigated, and perpetrators punished to effectively prevent and combat impunity.

The Committee first notes the Government's general update in this regard, informing about legal and administrative remedies and institutions available to persons or groups who allege that their civil liberties have been violated, as well as about other measures undertaken by the Government to address such allegations. The Committee notes, in particular, that the Government points to the active role of the Department of Labour and Employment (DOLE), informing that DOLE focal points in the 16 RTMBs assist aggrieved parties to access legal remedies available in cases of intimidation, harassment and red-tagging, including through securing affidavits and endorsing them to the appropriate office for verification and possible filing to entities with jurisdiction. The DOLE also sends communications to the armed forces, the police and companies, calling on them to ensure protection and promotion of workers' rights to freedom of association, and its regional offices should act as intermediaries between

the parties in the monitoring mechanisms, so as to limit any threat or intimidation of the complainants, an initiative accepted by the armed forces. Furthermore, to address the concern that most of the arrests previously denounced by the unions were made by virtue of search warrants from Manila and Quezon City courts, which were implemented in areas outside their regions, the Supreme Court issued an Administrative Matter, expressly limiting the power to issue search warrants within the bounds of one's territorial jurisdiction, which has been met with positive response by labour groups. The Government adds that the previously mentioned Senate Bill No. 2121 (defining and penalizing the crime of red-tagging) was filed in March 2021 but was not enacted and may be refiled in the 19th Congress. ***The Committee takes due note of the above information and appreciates the described measures and initiatives, which it trusts will, together with the tripartite road map, contribute to ensuring full respect for civil liberties in the exercise of trade union rights. The Committee strongly encourages the Government to continue to take concrete measures in this regard and requests it to provide information on the progress made in the adoption of Senate Bill No. 2121.***

The Committee further notes that the Government also provides updates on the concrete investigative and other actions undertaken to address some of the specific allegations previously reported by trade unions. In particular, the Committee notes the Government's detailed information in relation to the allegations of extra-judicial killings of eight trade unionists in the education sector reported by EI, ACT and SMP-NATOW in 2020, indicating that three cases are pending before the courts, in one case the suspect is deceased and four cases are under investigation, the motive for the killings not yet ascertained. The Committee also duly notes the Government's reporting on the status of monitoring or investigations initiated by various domestic mechanisms, including the Commission on Human Rights, the National Bureau of Investigation, a special investigation task group and the Administrative Order No. 35 special investigating teams, into the killings of 13 trade unionists, 17 cases of red-tagging and harassment, and 12 cases of forced disaffiliation alleged by the ITUC in 2021 and observes that for some incidents murder charges were filed against several policemen. The Committee welcomes the detailed observations and the measures taken to investigate these incidents and bring the perpetrators to justice. The Committee observes, however, that out of the 17 instances of arrests of unionists that were denounced by the ITUC, only two were released while the others have criminal cases pending against them. The Committee also observes that the Government does not provide updated information on the status of investigations into the other serious allegations previously reported, in particular many of those alleged by the ITUC and EI in 2019 and 2020 and some of the incidents submitted jointly by EI, ACT and SMP-NATOW in 2020, all of which are detailed in the Committee's previous comments, and concern specific incidents of killings, attempted killings, death threats, profiling, surveillance, violent strike dispersal and military and police raids on union offices. ***In view of the above and having regard to the seriousness of the denounced incidents, the Committee expects the Government to continue to take measures to ensure that all allegations of killings, red-tagging, harassment and other serious forms of violence against trade unionists previously reported by the ITUC, EI, ACT and SMP-NATOW are properly investigated and lead to concrete results, so as to establish the facts, including any links between the violence and trade union activities, determine culpability, punish the perpetrators and contribute to preventing and combating impunity. The Committee requests the Government to continue to provide information on the measures taken in this respect and on the progress in investigations.***

New allegations of violence and intimidation. The Committee notes that in its latest communication, the ITUC raises concerns about persistent violations against workers and their representatives and points to two illustrative incidents. In particular, the ITUC alleges that in November 2021, persons claiming to be members of the Quezon City Police Department entered the offices of the Center of United and Progressive Workers (SENTRO) and later the Trade Union Confederation of the Philippines (TUCP) without justification, repeatedly inquiring about SENTRO's office, other unions present and their activities, as well as about the Nagkaisa Labour Coalition. In another incident in December 2021, the

police brutally repressed a strike in a pasta-making company, using water cannons and truncheons, and 44 workers were arrested and charged with illegal assembly, disobedience and causing “alarm and scandal”; they were later released pending further investigation. According to the ITUC, the climate of pressure, fear and extreme physical violence gravely undermines the ability of workers to exercise the rights protected by the Convention, and the persistence of these violations, as well as the failure of State entities to seriously address the situation, continue to expose workers engaging in trade union activities to imminent danger and irreparable harm and requires immediate intervention. **Noting these allegations with concern, the Committee requests the Government to provide its observations thereon and to ensure that the incidents are adequately addressed, including through investigation, that any unionists detained in relation to the legitimate exercise of trade union activities are released and that the criminal system is not used to repress freedom of association rights.**

Pending cases of alleged killings of trade union leaders. For several years, the Committee has been requesting the Government to ensure that the investigations into the killings of trade unionists Rolando Pango, Florencio “Bong” Romano and Victoriano Embang are completed to shed full light on the facts and the circumstances in which such actions occurred and, to the extent possible, determine responsibilities, punish the perpetrators and prevent the repetition of similar events. The Committee notes from the Government’s information that the cases continue to be monitored by the regular process of criminal investigation and prosecution but observes that no apparent progress was made in the case of Rolando Pango (a murder case dismissed in 2015 for lack of probable cause) and Victoriano Embang (a murder case filed in 2015 with the two accused remaining at large). In the case of Florencio “Bong” Romano, the Government informs of police interviews and continuing investigation to identify the perpetrator. **Observing with regret that despite continued monitoring and investigation reported by the Government, no substantial progress appears to have been achieved in bringing the perpetrators to justice or clarifying the circumstances of these incidents, the Committee urges the Government to step up its efforts in this regard and emphasizes that investigations into killings of trade unionists should yield concrete results, so as to determine reliably the facts, the motives and the persons responsible.**

Measures to combat impunity. Monitoring mechanisms. In its previous comment, the Committee expressed trust that the review of the operational guidelines of the monitoring mechanisms would be completed without delay and would contribute to ensuring their full operationalization and requested the Government to continue to take measures to ensure effective and timely monitoring and investigation of all pending labour-related cases. The Committee notes the Government’s indication that both the review of the operational guidelines of the RTMBs and consultations on the possibility of creating mechanisms specifically for the purpose of monitoring freedom of association cases are part of the mid-term goals incorporated in the proposed tripartite road map and are expected to be completed by December 2023. The Government also reports on progress made in the collection of information and investigation in the 43 cases of killings of unionists reported by workers’ representatives at the 2019 Conference Committee, out of which 19 are being investigated, 18 are pending in court, three were dismissed, in one case the suspect died and in two cases the relatives filed affidavits of disinterest. An additional 12 incidents submitted by ACT Teachers Partylist, Nagkaisa Labour Coalition and other labour groups are, according to the Government, also being addressed, with four cases pending in court, six cases under investigation, in one case the suspect died and in one the relatives issued affidavits of disinterest. **Taking due note of the above, the Committee strongly encourages the Government to fully engage with the social partners in the review of the operational guidelines of the monitoring mechanisms, including in the framework of the mentioned tripartite road map, and requests that the Government continue to take all necessary measures to further strengthen these mechanisms, including allocating sufficient resources, staff and security to personnel, in order to ensure their full operationalization and to allow for effective and timely monitoring and investigation of all pending labour-related cases of extra-judicial killings and other violations against**

trade union leaders and members. The Committee also requests the Government to continue to provide updates on the progress made by these mechanisms in ensuring the collection of the necessary information to bring the pending cases of violence against trade unionists to the courts.

Measures to combat impunity. Training and Guidelines on the conduct of stakeholders. The Committee notes the information provided by the Government on several ongoing projects and training activities, including a project for various government agencies and sectoral partners on ensuring safe and decent work by improving the state of freedom of association in ecozones, which aims to strengthen social dialogue and labour relations laws, processes and institutions, as well as to build the capacity of government agencies on international labour standards, including the core Conventions on freedom of association and collective bargaining. The Government further informs that the 2011 and 2012 Guidelines governing the conduct of concerned agencies relative to the exercise of trade union rights and activities are being harmonized into a new set of guidelines, which will govern the conduct of government stakeholders but also workers and employers in the private sector, and will emphasize that all requests for police or military assistance during labour disputes, including in economic zones, should be processed through and coordinated with the DOLE. The Government indicates that these guidelines have been presented to the social partners, and are the subject of ongoing deliberations, and are expected to be finalized by the end of 2022. **Welcoming the above initiatives, the Committee encourages the Government to continue to promote comprehensive training activities among government agencies, with a solid focus on international labour standards of freedom of association and collective bargaining, with a view to increasing awareness of the concerned State officials on these matters and improving their capacity to address and investigate alleged violations of human and trade union rights, thus ultimately contributing to combating impunity. The Committee looks forward to receiving the revised Guidelines on the conduct of stakeholders relative to the exercise of trade union rights and trusts that they will constitute a useful tool in preventing and addressing violations of civil liberties in this context. Further noting the Government's willingness to receive ILO technical assistance on a number of specific points, including on identifying gaps in the exercise of freedom of association, the Committee trusts that the Office will be in a position to provide any relevant technical assistance requested by the Government on these issues.**

Measures to combat impunity. Pending legislative matters. The Committee previously requested the Government to provide information on any developments in relation to the pending legislative matters referred to it by the Committee on Freedom of Association, in particular: (i) the adoption of a Bill concerning enforced and involuntary disappearances; and (ii) the previously announced review by the Supreme Court and the Commission on Human Rights of the witness protection programme on the writ of amparo adopted in 2007, as well as of the application of the Anti-Torture Act No. 9745 and of Act No. 9851 on crimes against international humanitarian law, genocide and other crimes against humanity. The Committee notes the Government's indication that since House Resolution No. 392 was filed in October 2019 (calling for justice for the victims and urging the House Committee on Human Rights to investigate, in aid of legislation, the state of enforced disappearances in the country), no further action was taken by the Congress. It also informs that House Resolution No. 45 (directing the Committees on Justice and Human Rights to jointly conduct an inquiry into the implementation of the Anti-Enforced or Involuntary Disappearance Act of 2012) was filed in Congress and is pending the first reading. **The Committee takes due note of the above and encourages the Government to continue to support legislative efforts that could have a positive impact on the exercise of civil liberties and trade union rights in the country.**

Anti-Terrorism Act. In its previous comment, in view of the concerns expressed by the ITUC, the Committee requested the Government to take any necessary measures to ensure that the Anti-Terrorism Act, 2020 does not have the effect of restricting legitimate trade union activities. The Committee notes the Government's indication that the Act has been submitted to judicial scrutiny so as to determine whether or not it is inconsistent with the constitution and that in its judgment from

December 2021, the Supreme Court declared that the law was not, as a whole, unconstitutional but nullified two of its provisions. In particular, the Committee observes from the text of the judgment that the Supreme Court considered as unconstitutional a part of the *proviso* in section 4 which allows for an overly vague interpretation of what constitutes terrorism and the second paragraph of section 25, allowing the Anti-Terrorist Council appointed by the President to adopt requests by other jurisdictions or supranational organizations to designate individuals, groups of persons, organizations or associations as terrorist. The Committee understands that following the Supreme Court decision, terrorism as defined in section 4 does not include advocacy, protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights, and welcomes this development. The Government adds that in April 2022, the Supreme Court denied appeals to reverse its decision upholding the constitutionality of the law as a whole but clarifies that the decision does not preclude subsequent challenges on other provisions if an actual case or controversy arises. ***The Committee trusts that, in line with the above developments, the Government will ensure that the Anti-Terrorism Act or its implementation, do not have the effect of restricting legitimate trade union activities and related civil liberties.***

Legislative issues

Labour Code. In its previous comments, the Committee had been noting the numerous amendment bills pending before Congress over many years and in various forms with a view to bringing the national legislation into conformity with the Convention. ***Noting the Government's indication that no recent amendments have been made on the pending matters, even though a number of measures had been filed with the Senate and the House of Representatives over the years, the Committee reiterates all of its previous comments and requests in this respect, and expects concrete measures to be taken to pursue the revision of the Labour Code without additional delay so as to bring the national legislation into conformity with the Convention.***

The Committee further reiterates its comments contained in the 2020 request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1953)

Previous comment

The Committee previously requested the Government to provide detailed information on the allegations raised by the International Trade Union Confederation (ITUC) in its 2018 observations, which concern alleged union busting practices, blacklisting and anti-union dismissals and suspensions in three companies. ***Regretting the absence of information in this regard, the Committee requests the Government to provide its observations on these allegations and, should this not yet be the case, to take the necessary measures to address them without delay.***

Article 4 of the Convention. Categories of workers covered by collective bargaining. In its previous comments relating to the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee noted the Government's indication that under section 253 of the Labour Code, only employees (workers covered by an employer-employee relationship) may join trade unions for purposes of collective bargaining, whereas ambulant, intermittent, itinerant, self-employed and rural workers, as well as those without any definite employer may only form labour organizations for their mutual aid and protection. The Committee had also previously noted such restrictions on other categories of workers, including workers in managerial positions or with access to confidential information (section 255 of the Labour Code), firefighters, prison guards and certain other public sector workers authorized to carry firearms (Rule II, section 2 of the Amended Rules and Regulations

Governing the Exercise of the Right of Government Employees to Organize). The Government provides similar information in its latest report, pointing, in particular, to Department Order No. 40, 2003, as amended, which sets out the distinction between labour organizations established for collective bargaining (trade unions) and labour organizations organized for the mutual aid and protection of its members or for any legitimate purpose other than collective bargaining (workers' associations, including in the informal economy). The Committee understands from the above that certain categories of workers may only form and join associations for purposes other than collective bargaining and are therefore not able to fully benefit from the guarantees of the Convention in terms of collective bargaining. The Committee wishes to recall in this regard that, with the exception of organizations representing categories of workers which may be excluded from the scope of the Convention (the armed forces, the police and public servants engaged in the administration of the State), recognition of the right to collective bargaining is general in scope and all other organizations of workers in the public and private sectors must benefit from it, including prison staff, fire service personnel, self-employed and temporary workers, outsourced or contract workers, non-resident workers, part-time workers, agricultural workers and domestic and migrant workers. ***In line with the above and with its previous comments under Convention No. 87 and recalling that a number of legislative reforms addressing the right to organize of the above-mentioned categories of workers have been pending in Congress for many years, the Committee firmly expects the Government to take the necessary measures to ensure that all workers covered by this Convention, with the only possible exception of the armed forces, the police, and public servants engaged in the administration of the State (Article 6), can effectively benefit from the rights enshrined in the Convention, including the right to collective bargaining. The Committee further invites the Government to initiate a dialogue with the social partners concerned to identify the appropriate adjustments to be made to the collective bargaining mechanisms in order to facilitate their application to the various categories of self-employed and non-standard workers mentioned above.***

Content of collective bargaining in the public sector. In its previous comments, the Committee recalled that under section 13 of Executive Order No. 180, only terms and conditions not otherwise fixed by law may be negotiated between public sector employees' organizations and the government authorities and requested the Government to take the necessary legislative or other measures to expand the subjects covered by collective bargaining, so as to ensure that public sector employees not engaged in the administration of the State fully enjoy the right to negotiate their terms and conditions of employment, including wages, benefits and allowances, and working time. The Committee previously observed that two bills aimed at establishing a Civil Service Code were pending in Congress and that, following ratification of the Labour Relations (Public Service) Convention, 1978 (No. 151), the Government would develop a labour relations framework in the public sector that is aligned with that Convention. The Committee notes the Government's observations that the mentioned bills were not yet enacted into law and that three bills with the same subject-matter were filed in the 19th Congress – Senate Bill No. 587 and House Bills Nos 550 and 1513. The Committee understands from the above that no substantial progress appears to have been achieved in expanding the subjects covered by collective bargaining for public sector employees not engaged in the administration of the State and wishes to recall that *Article 4* of the Convention calls for measures to be taken to promote machinery for voluntary negotiation on terms and conditions of employment for all workers, including those in the public service, with the exception only of those who are engaged in the administration of the State, and that the negotiable terms and conditions of work include wages, benefits and allowances, and working time. ***In line with the above and with its comments under Convention No. 151, the Committee requests the Government to take the necessary measures, including in the context of developing a labour relations framework aligned with Convention No. 151, to ensure that all workers covered by this Convention, including public sector employees not engaged in the administration of the State (teachers, health-care workers, etc.), will be able to negotiate their terms and conditions of employment, including with***

respect to wages, benefits and allowances, and working time. The Committee requests the Government to provide information on any developments in this respect.

Requirements for negotiation and adoption of collective bargaining agreements in the electricity sector.

In its previous comments, the Committee noted the observations from the Center of United and Progressive Workers (SENTRO) denouncing the Philippine National Electrification Administration (NEA) policies for directing electric cooperatives to have their bargaining agreements ratified by entities other than those provided for in the law. The Committee notes the Government's clarification in this regard that the issues that gave rise to the complaint by SENTRO evolved around the NEA Memorandum No. 2014-003, instituting Multi-Sectoral Electrification Advisory Council (MSEAC) representatives as part of a consultative panel for the review and negotiation of proposed collective bargaining and collective negotiation agreements in each electric cooperative. The Government informs that the Associated Labour Unions-Trade Union Congress of the Philippines (ALU-TUCP) challenged the Memorandum at the Court of Appeals, alleging that it was contrary to the law on collective bargaining. The Appeals Court, however, considered, in its October 2015 ruling, that the Memorandum was not contrary to the law as it aimed at strengthening harmonious relations between employers and member-consumers and at promoting their well-being through increased transparency and a consultative approach. The Court of Appeals also considered that the rules of the Memorandum do not stifle collective bargaining as they only deal with prior or subsequent activities – the matters subject to review and negotiation by the consultative panel only refer to proposed collective bargaining provisions and not those already agreed upon. In addition, this allows the participants to be aware of the broader picture in which negotiations take place. The Committee notes the Government's indication that in July 2017, the Supreme Court denied with finality the petition for review on certiorari filed by the union and that these issues are thus deemed judicially resolved. The Government further informs that, like in other sectors and industries, the entry into force of collective agreements in the electricity sector does not require prior approval of labour administration authorities.

While taking due note of the above, the Committee observes from the text of Memorandum No. 2014-003 that, according to the NEA, some unions did not heed its advice to have more reasonable economic and non-economic demands in negotiations so as to avoid financial difficulties affecting the delivery of electric service, and that there was therefore a need to strengthen harmonious relationships, promote the well-being of employees and the welfare of member-consumers, and to that effect, transparency requiring consultation and involvement of other sectors and stakeholders was necessary. The Memorandum thus requires the participation of MSEAC representatives in a consultative panel for the review and negotiation of proposed provisions of collective bargaining agreements, which are later ratified by a plurality of votes of the General Membership Assembly, after the management has thoroughly analysed whether they offer a balanced welfare for both employees and member-consumers and overall financial standing of the electric corporation.

While it did not receive specific information on the exact composition of the MSEAC and the consultative panel, the Committee understands from the above that Memorandum No. 2014-003 seems to expand the practice of collective bargaining in electric corporations beyond the parties, that is, the relevant trade unions and the electric corporations, as employers, by providing for the express involvement of a multi-sectoral consultative panel for review and negotiation of proposed collective agreements, as well as for the approval of collective agreements by the corporation's general assembly of members. Although it was not provided with information on the exact involvement of the panel in negotiations, the Committee wishes to underline that provisions requiring agreements to be negotiated with the involvement of third parties may raise problems of compatibility with the Convention, as such third-party involvement considerably alters the bipartite nature of the negotiating process and may not be conducive to promoting voluntary collective bargaining within the meaning of *Article 4* of the Convention. The Committee recalls in this regard that, the Convention tends essentially to promote bipartite negotiation of terms and conditions of employment, namely between employers and

employers' organizations, on the one hand, and workers' organizations, on the other, so that the parties enjoy full autonomy in determining the content of any agreements concluded. Furthermore, such agreements should not be subject to prior approval by entities other than the parties concerned. ***In line with the above, the Committee requests the Government to provide further information on the composition of the consultative panel and the manner of its involvement in negotiations of collective bargaining agreements in the electricity sector. It further calls on the Government to consider reviewing Memorandum No. 2014-003 and its implementation, together with the social partners, so as to ensure that employees of electric corporations may fully exercise their rights under the Convention. The Committee also requests the Government to report on the number of collective agreements concluded and in force in the electricity sector and the number of workers covered by these agreements, as well as on any other measures taken to encourage and promote voluntary and good-faith collective bargaining in the sector.***

Collective bargaining in practice. The Committee notes the Government's observations on the number of collective agreements registered for the past six years and notes that the Government points to a trend in registration of collective agreements that is consistent with the number of agreements that expire over the same period. The Government indicates, in particular, that, in 2020, the number of collective agreements registered that year declined from 263 to 175, covering more than 60,000 workers, which is associated with the restrictions imposed due to the COVID-19 pandemic. However, in 2021, the number of registered collective agreements increased again to 319, covering about 63,000 workers, and during the period from 1 January to May 2022, 162 collective agreements were registered covering around 39,000 workers. In this respect, the Committee also notes with **concern** that according to ILOSTAT, only 1.4 per cent of employees in the country are covered by collective agreements. ***The Committee therefore requests the Government to take all the necessary legal and practical measures to promote the full development and utilization of collective bargaining under the Convention, including those mentioned in the present comment, and to provide information in this respect. The Committee furthers requests the Government to continue to report on the number of collective agreements concluded and in force, the sectors concerned and the number of workers covered by these agreements.***

Rural Workers' Organisations Convention, 1975 (No. 141) (ratification: 1979)

Previous comment

Articles 3 and 5 of the Convention. Freedom to elect representatives. Obstacles to the functioning of rural workers' organizations. The Committee recalls that in view of the difficulties for rural workers' organizations in assembling their members scattered around the country in a great number of islands, it had expressed the firm hope that section 250(c) (requirement to hold elections of officers in the local or national union directly and by secret ballot) and that the penalty of cancellation of union registration or officer expulsion in violation of this direct voting requirement of the Labor Code would be amended (section 250). The Committee notes that the Government reiterates that Department Order No. 40-F-03 of 2008 is the implementing rules and regulations of Republic Act No. 9481 of 2007, which amended the Labor Code regarding grounds for cancellation of union registration (article 247, previously 239) to limit it to misrepresentation, fraud, and voluntary dissolution by the members. The Committee notes the Government's indication that the penalty related to the cancellation of the trade union registration is deemed repealed and inoperative even without further legislation. The Committee observes that while the Labor Code provides for the application of the favourability principle (section 4), the fact that the Labor Code still contains the provision setting out explicitly, in its section 250, a penalty of cancellation in violation of the direct voting requirement, may lead to issues of ambiguity in interpretation between sections 247 and 250 of the Labor Code. Recalling that the penalty of officer expulsion in violation of section 250(c) of the Labor Code is incompatible with the principles of freedom of association set out in

Article 3 of the Convention, the Committee notes with **concern** that the Government does not provide information regarding any measures taken or envisaged to amend or repeal this provision from section 250 of the Labor Code. Regarding the requirement of direct election, the Committee notes the Government's indication that the right of workers to directly elect their trade union leaders is a rule, but, exceptionally, voting through a representative is also possible if provided for in the trade union's constitution and by-laws. The Committee welcomes the Government's indication that the Department of Labor and Employment is devising a procedure, through tripartite consultations, to use technology to enable online voting and the operationalization of this initiative will be part of the discussions related to the review and update of Department Order No. 40-F-03, which is expected to be completed in the first quarter of 2023. **The Committee requests the Government to take all the necessary measures, in consultation with the social partners, to amend section 250 of the Labor Code to ensure its full conformity with the Convention. The Committee requests the Government to provide information on any progress on this matter and on the envisaged review of the Department Order No. 40-F-03 and, once adopted, to provide a copy of the reviewed regulations.**

Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 2017)

Previous comment

Article 1 of the Convention. Scope of application. While noting Executive Order No. 180 of 1987 (EO 180) (right of all Government employees to form, join or assist employees' organizations of their own choosing), and article IX(B) section 2(6) of the Constitution and Supreme Court judgements (right of temporary employees to self-organization and protection against arbitrary dismissals), the Committee had observed that there is no domestic law, rule, or policy pertaining to the right to organize of temporary public employees. The Committee notes the Government's indication that House Bills Nos 2621 and 2846, noted in the Committee's previous comment, were not enacted into law. **The Committee requests the Government to provide information on the measures taken or envisaged, including legislative measures, so that temporary public employees, in line with the provisions set out in the Constitution, enjoy the rights and guarantees of the Convention.**

The Committee had observed that under EO 180 and the Amended Rules and Regulations Governing the Exercise of the Right of Government Employees to Organize, 2004 (Implementing Rules and Regulations (IRR) of EO 180), several other categories of workers, whose functions do not justify their exclusion from the application of the Convention, were subject to limitations: firefighters and prison and other personnel who, by the nature of their functions, are authorized to carry firearms, are also excluded from this right (except when there is express written approval from the management). The Committee notes with **interest** that the Public Sector Labor-Management Council (PSLMC) Resolution No. 4, s. 2021 (October 2021) clarifies section 15 of the EO 180, and provides that: (i) the exclusion from this right to members of the Armed Forces of the Philippines (AFP) and Philippine National Police (PNP) is not applicable to the civilian and non-uniformed employee's association in the AFP and PNP; and (ii) these employees are accorded the right to organize and shall, upon accreditation, collectively negotiate terms and conditions of employment that are not fixed by law. The Committee observes, however, that the Government does not provide information regarding the right to organize and bargain collectively of other categories of workers, such as firefighters and prison guards, and that in previous comments on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee had noted the Government's indication that these categories of workers may exercise the right to freedom of association but not to the extent of forming, joining or assisting labour organizations for purposes of collective bargaining. The Committee therefore refers to its comments regarding the application of Article 2 of Convention No. 87 and Article 4 of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

Registration requirements for trade unions in the public sector. Legislative issues. In its previous comments under Convention No. 87, the Committee had requested the Government to inform of the progress made in amending the IRR of EO 180 with regard to the registration requirement for trade unions in the public sector. The Committee notes the Government's indication that from 2017 to 2019 the number of newly registered public sector unions increased (100 in 2017 to 133 in 2019), and that, while the increase was disrupted by the COVID-19 pandemic, it expects to continue increasing. The Committee welcomes the Government's indication that: (i) House Bills No. 550 and 1513, both titled an "Act Strengthening the Constitutional Rights of Government Employees to Self-Organization, Collective Bargaining and Negotiation and Peaceful Concerted Activities and Use of Voluntary Modes of Dispute Settlement" were filed before the House of Representatives on 30 June and 7 July 2022, respectively; (ii) Bill No. 587, with the same title as the House Bills, was filed before the Senate on 14 July 2022; and (iii) these Bills seek to operationalize the Convention and will be discussed by the Congress (which formally opened sessions on 25 July 2022). The Committee observes that the Government does not provide details about the current or foreseen impact of these proposals (and others mentioned in past years by the Government such as the review of the Amended IRR) on the registration threshold for public servants' organizations (a 10 per cent signature support requirement, which has been considered overly stringent by the Center for United and Progressive Workers (SENTRO)). ***In light of the above, the Committee, requests once again the Government to provide further updates on the progress made in the legislative reform concerning the right to organize of public sector employees and to indicate any impact of these reforms on the threshold for registration of public employees' organizations.***

Article 6. Facilities to be afforded to public employees' organizations. The Committee had requested the Government to indicate in more detail the nature of facilities that are afforded to the representatives of recognized public workers' organizations to enable them to carry out their functions promptly and efficiently. The Committee notes the Government's indication that: (i) a survey conducted in 2018 showed that 540 out of 1,073 Collective National Agreements (CNAs) include agency fees (75 per cent) and union time-off (64 per cent); (ii) the PSLMC passed Resolution No. 2, s. 2022 providing for the Guidelines on the Use of Time-Off by Public Sector Employees' Organizations (Annex C), ensuring that members are guaranteed their right to attend activities of their organization without loss of pay; (iii) most unions with signed CNAs are able to negotiate for union office and support facilities; and (iv) unions are also represented in procurement committees and promotion and selection boards, subject to applicable regulations. The Committee observes that the Government does not indicate whether the CNAs mentioned in the referred survey and the other information provided regarding facilities apply to the public sector only or gather information from both the public and private sectors. Regarding the above mentioned Bills (Nos 550 and 1513) to implement the Convention, the Committee notes the Government's indication that: (i) the Bills were filed by representatives of labour and consultations have only been held with the labour sector; and (ii) the National Tripartite Industrial Peace Council (NTIPC) may be used as a venue for further consultation. The Committee observes that the Government does not provide further information on the content of these Bills with respect to the facilities afforded to the representatives of recognized public workers' organizations. The Committee recalls that the most important facilities are the granting of time off for workers' representatives without loss of pay or benefits, the collection of trade union dues, access to the workplace and prompt access to management. The Committee further recalls that it is desirable for consultations to be held prior to the adoption of legislation on facilities so that the measures adopted are sustainable and not contingent on successive changes of government or administration. ***The Committee therefore requests the Government to provide information on all the facilities that are envisaged in the above legislation and that have been agreed in public sector CNAs to representatives of public employees' organizations to enable them to carry out their functions promptly and efficiently (including, granting of time off for workers' representatives without loss of pay or benefits, the collection of trade union dues, prompt access to the management and the workplace and availability of premises). The Committee trusts that***

such legislation will address this issue, following consultations with the representative organizations concerned, and requests the Government to provide a copy of the legislation once adopted.

Article 7. Participation of organizations of public employees in the determination of terms and conditions of employment of their members. The Committee had noted that the requirement of the absolute majority in a bargaining unit to obtain the status of sole and exclusive collective negotiating agent may give rise to problems every time that no union secures the absolute majority support, thus preventing collective bargaining (sections 9–12 of EO 180, Rule I, section 1(a) of IRR on EO 180)). The Committee requested the Government to indicate whether in case no union in a specific bargaining unit meets the majority requirement, the existing unions are able to negotiate, jointly or separately, at least on behalf of their own members. The Committee notes the Government's reply to this request, indicating that only unions with status of sole and exclusive negotiating agent can conclude a CNA with their employer. The Committee observes that the referred majority requirement can significantly limit the access of public employees to collective bargaining. **The Committee therefore requests the Government to indicate how the right of public employees to participate through their organizations in the determination of their terms and conditions of employment set by article 7 of the Convention is applied in the public services where no organization reaches the referred threshold.**

The Committee notes the information provided by the Government regarding the number of accredited employees' organizations as of June 2022 (1,299) and that 753 concluded and registered a CNA with the Civil Service Commission. The Committee also notes the Government's indication that the number of organizations of public workers that have obtained the status of exclusive negotiating agent has increased from 148 in 2019 to 180 in 2020 and 275 in 2021. **Observing that only public employee's organizations with the status of exclusive negotiating agents can conclude a CNA, the Committee requests the Government to provide information clarifying the updated number of CNAs concluded in the public sector.**

The Committee had noted that according to the legislation, terms and conditions of employment not fixed by law may be the subject of negotiation (increases in salary, allowances, travel expenses, and other benefits that are specifically provided by law cannot be negotiated). The Committee had noted the Government's information on the existence of different mechanisms – the PSLMC, the NTIPC, the Regional Tripartite Industrial Peace Councils (RTIPCs) and the Industry Tripartite Councils (ITCs), which, according to the Government, ensure that the interests of workers in Government services are fully represented in the decision and policy-making processes. The Committee notes the Government's indication that no new mechanisms have been put in place so that public sector employees' organizations can negotiate or participate in the determination of terms and conditions of their employment. The Committee observes that the Government does not provide information on: (i) how the existing mechanisms allow public servant organizations to negotiate or participate in the determination of terms and conditions of their employment, in line with *Article 7* of the Convention, without limitation of subjects; and (ii) the status of the public sector labour relations road map consistent with the principles of the Convention. **The Committee therefore requests the Government to provide information on the manner in which the existing mechanisms allow public servant organizations to negotiate or participate in the determination of terms and conditions of their employment, in line with Article 7 of the Convention, without limitation of subjects (including salary, allowances and travel expenses). Recalling its comments on the application of Article 4 of Convention No. 98 with respect to the public servants not engaged in the administration of the State, the Committee requests the Government to provide information on the progress related to the development of a labour relations framework aligned with Convention No. 151.**

Article 8. Settlement of disputes. The Committee had noted that the PSLMC, due to its composition of only Government representatives, does not appear to constitute an independent and impartial means of solving disputes arising in connection with the determination of terms and conditions of employment, as provided for in *Article 8* of the Convention. The Committee notes, that the Government reiterates that

the Civil Service Commission may conciliate or mediate a dispute before is sent to the PSLMC for resolution. The Committee notes, once again, that the Government does not provide information regarding the possibility for representatives of public servants' organizations to vote in the discussions and deliberations of the PSLMC. The Committee notes the Government's indication that there is no other independent and impartial means of solving disputes arising in connection with the determination of terms and conditions of employment, as provided for in *Article 8* of the Convention. The Committee further notes the Government's indication that negotiating parties can submit proposals to the Congress and other authorities to improve the terms and conditions of their employment. ***The Committee therefore requests the Government to take all the necessary measures to ensure that independent and impartial machinery is established so that disputes arising in connection with the determination of terms and conditions of employment in the public service can be referred to such mechanisms, which should benefit from the confidence of the parties. The Committee requests the Government to provide information on any developments in this regard.***

Tribunal decisions. The Committee takes note of the information provided by the Government regarding five court decisions issued by the Supreme Court of the Philippines, between 1991 and 2021, relating to the application of the Convention, including one related to the power of the Department of Budget and Management to issue rules in relation to compensation as a result of collective negotiations between government employees' organizations and their employers (*Dreneu vs. Abad*, G.F. No. 204152). ***The Committee requests the Government to indicate the implications of this decision, regarding terms and condition of employment of public employees, and to continue to provide information on court decisions relating to questions of principle regarding the application of the Convention.***

Poland

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1957)

Previous comment

The Committee notes the observations of the International Trade Union Confederation (ITUC) and of the Independent and Self-Governing Trade Union (NSZZ) "Solidarność", received on 1 September 2022, as well as the observations of the All-Poland Alliance of Trade Unions (OPZZ), transmitted with the Government's report, referring to the issues examined by the Committee below. ***The Committee takes note of the Government's reply to the observations received and requests it to provide its comments in relation to the ITUC's alleged violations of unions' rights in organizing strike referendums and social elections.***

Articles 2 and 9 of the Convention. Right of workers, without distinction whatsoever, to establish and join trade unions. In its previous comments, the Committee had noted the allegations made by the NSZZ "Solidarność" that the Act on Universal Defence prohibited soldiers of the territorial defence forces, who were at the same time private sector employees, to establish and join trade unions in the private sector. In this respect, the Committee notes the information provided by the Government that the Act in question was repealed and replaced by the Act of 11 March 2022 on the Defence of the Homeland. In particular, the Committee takes due note that pursuant to section 328(5) of the Act, soldiers who are not professional soldiers are prohibited to establish and join trade unions, or take part in the activities of trade unions of which they were members at the time of their appointment to service, and that pursuant to section 328(6), this prohibition does not apply to soldiers of territorial defence serving on a rotational basis, except where trade union activities are related to the performance of their military service.

Article 3. Right of organizations to elect their representatives in full freedom, to organize their activities, and to formulate their programmes. Civil service. The Committee had previously referred to the need to amend section 78(6) of the Act on Civil Service, which prohibits members of the civil service occupying senior positions to exercise trade union functions. In this respect, the Committee notes the Government's expressed intention to address this issue in consultation with the social partners on the occasion of the amendment of the Act. The Committee had also requested the Government to amend section 78(3) of the same Act, which forbids civil servants to participate in strikes or actions of protest interfering with the normal functioning of the office, and trusted that the Government would consider establishing a procedure for determining which public servants enumerated in section 19(3) of the Law on Collective Labour Disputes and in section 2 of the Act on the Civil Service were exercising authority in the name of the State and for whom the right to strike could therefore be restricted. Recalling that it had previously welcomed the Government's indication that a draft law dealing with the right of public employees to strike was submitted to the Council of Ministers, the Committee notes with **regret** the Government's indication that at present, there are no legislative initiatives to amend section 78(3) of the Act on Civil Service. **Recalling that for a number of years it has been commenting on the discrepancies between section 78(3) and (6) of the Act on Civil Service Act and the Convention, the Committee urges the Government to take all necessary steps to expedite the process of amendment of this Act, so as to ensure that civil servants may exercise their trade union functions at all levels and that the right to strike is granted to all public servants, with the possible exception of public servants exercising authority in the name of the State. It requests the Government to provide information on all progress made in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1957)

Previous comment

The Committee notes the observations of the National Commission of the Independent and Self-Governing Trade Union "Solidarność" (NSZZ "Solidarność"), received on 1 September 2022, which mostly relate to issues examined by the Committee in the present comment. The Committee also notes the observations of the International Trade Union Federation (ITUC), received on 1 September 2022 alleging violations of workers' rights under the Convention, including anti-union dismissal, unfair treatment of trade unionists, and the prevention of unions from organizing social elections. **The Committee requests the Government to provide its comments in this regard.**

The Committee further notes that the Government replies to the observations of the ITUC, which were received on 1 September 2018 and referred to a series of anti-union discrimination acts, including the dismissal of more than 20 "Solidarność" representatives. The Committee notes that the Government provides information in this regard, indicating in particular that in several cases the employees were reinstated. The Committee also takes note of the Government's comments in reply to previous observations of NSZZ "Solidarność", the All Poland Alliance of Trade Unions (OPZZ) and the ITUC.

Article 1 of the Convention. Protection against anti-union discrimination. Legal proceedings applicable to reinstatements. The Committee had previously noted that the victims of anti-union dismissals could request reinstatement, but that the court proceedings could take up to two years. It had also noted the Government's intention to consider amending the Code of Civil Procedure (CCP) in this regard. The Committee welcomes the Government's indication that section 477²(2) of the CCP was amended, so that the court, at the employee's request, may decide to impose on the employer the obligation to continue the employment of the employee until the final conclusion of the proceedings. The Government adds that consideration was also given to the NSZZ "Solidarność" proposal to make additional amendments

to the CCP, but the Ministry of Justice did not recommend any further amendments in this regard. The Committee notes the allegations of the NSZZ “Solidarność” that additional legislative changes to the procedural regulations contained in the CCP are needed if the persons who, by virtue of section 32 of the Act on Trade Unions, enjoy special protection under the Act on Trade Unions due to their trade union status or activities are to be efficiently protected against anti-union discrimination. ***In order to evaluate the effectiveness of the protection granted by the referred provisions, the Committee requests the Government to provide detailed information on the practical application of sections 32 of the Act on Trade Unions and 477² (2) of the Code of Civil Procedure.***

Effective sanctions and compensation to prevent anti-union discrimination. The Committee had previously requested the Government to take the necessary measures to raise the level of fines applicable to anti-union discrimination acts as well as to increase the amount of compensation in cases of anti-union dismissal. The Committee notes with ***regret*** that the Government merely reiterates the information that currently there are no legislative initiatives in this regard. ***The Committee urges the Government to take all necessary steps to expedite the process for the revision of the respective provisions, in consultation with social partners, so as to bring the legislation into conformity with the requirements of the Convention by increasing the level of fines applicable to anti-union discrimination acts as well as by increasing the amount of compensation in cases of anti-union dismissal. It requests the Government to provide information on all progress made in this regard.***

Number of sanctions imposed. The Committee had previously requested the Government to provide statistics on the number of sanctions imposed under the amended section 35(1) of the Act on Trade Unions, and to provide information on how the burden of proof is managed by the tribunals when applying this section. The Committee notes the information provided by the Government on the number of complaints for discrimination based on trade union membership, as registered with the National Labour Inspectorate from July 2018 to June 2022: 15 in the second half of 2018, 55 in 2019, 40 in 2020, 57 in 2021, and 26 in first half of 2022 up to 20 June. The Committee also notes the statistics based on the number of persons validly sentenced pursuant to article 35(1) of the Act on Trade Unions in 2015-2019, which included two persons sanctioned, one in 2017 and one in 2019. The Committee also notes additional statistics provided by the Government related to a second set of persons sentenced for crimes prosecuted by the prosecutor. ***The Committee requests the Government to continue providing information on the number of sanctions imposed under the amended section 35(1) of the Act on Trade Unions, and in particular to clarify which type of offences and anti-union acts the second set of statistics refers to. Furthermore, noting that the Government has not provided information on how the burden of proof is managed by the tribunals when applying section 35(1), the Committee once again requests the Government to provide information in this regard.***

Compensation available to “persons working for money”. In its previous comments relating to the protection against anti-union discrimination of “persons working for money” that are now covered by the Act on Trade Unions, the Committee had requested the Government, to specify: (i) whether the consequences of an anti-union termination of the contractual relationship of a “person working for money” are limited to or go beyond financial compensation; (ii) on which basis and according to which modalities the compensation amounting to six months' salary for “persons working for money”, who are trade union representatives and who would be subject to anti-union discrimination, is calculated. The Committee notes that the Government indicates that as a result of the amendment to the Act on Trade Unions, the special safeguards provided for in section 32(1) of this Act also apply to workers other than employees, and that in case of a breach by an employer of these safeguards, trade union activists who are not employees are entitled to a pecuniary compensation (due irrespective of the amount of the damage suffered). The Government further indicates that, pursuant to section 32(1)⁴, when determining the amount of the remuneration referred to in section 32(1)³, the average monthly remuneration for the period of six months preceding the date of termination of the legal relationship, giving notice or a unilateral change to such legal relationship is taken into account, and if a worker, other than an

employee, has been working for a period of less than six months – the average monthly remuneration for the entire period of their employment. The Government however indicates that a trade union activist who is not an employee is not entitled to claim reinstatement but may be entitled to damages or redress in excess of the compensation amount, provided that a trade union activist proves in court proceedings all conditions legitimizing liability for damages. **While welcoming the amendments to the Act on Trade Unions, in particular new sections 32(1)³ and 32(1)⁴, that provide for the special safeguards under section 32(1) of this Act to apply to workers other than employees, the Committee invites the Government to engage in consultations with the social partners so as to consider the possibility that the consequences of an anti-union termination of the contractual relationship of a “person working for money” are not limited to financial compensation. It also requests the Government to provide information with regard to the application of sections 32(1)³ and 32(1)⁴ of the Act on Trade Unions in practice and provide the statistics of the respective cases in this regard.**

Article 4. Promotion of collective bargaining. The Committee had previously requested the Government to indicate the extent to which conditions of work, including pay, of “persons working for money” can be subject to collective bargaining. It notes with **satisfaction** the Government’s indication that due to the amendments made to the Act on Trade Unions, all the rules related to working conditions and remuneration of “persons working for money” that are subject to negotiations leading to signing a collective agreement, are the same as the rules previously applied to employees. According to the Government, every aspect of the work and remuneration of a worker may be subject to arrangements when negotiating a collective labour agreement, provided that they do not go below the conditions already established by applicable labour law. **The Committee requests the Government to provide information on the number of collective agreements concluded and in force, the sectors concerned and the number of “persons working for money” covered by these agreements, as well as any additional measures undertaken to promote the full development and utilization of collective bargaining under the Convention.**

Portugal

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1964)

Previous comment

The Committee notes the observations of the Confederation of Portuguese Industry (CIP) and of the General Workers’ Union (UGT), transmitted with the Government’s report and referring to matters under examination by the Committee.

The Committee further notes that in its observations on the application of Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the UGT alleges acts of anti-union discrimination, harassment and intimidation in the industry and service sectors. **The Committee requests the Government to provide its comments thereon.**

Article 4 of the Convention. Promotion of collective bargaining. Extension of collective agreements. In its previous comments, the Committee requested the Government to provide information on the application of the new regime for the extension of collective agreements, which was established under the Medium-Term Tripartite Agreement of 2017. The Committee notes that the Government reports that the number of extension ordinances issued significantly increased in the years following the publication of Decision No. 82/2017, decreased in 2020 due to the low number of collective agreements concluded in the context of the COVID-19 pandemic, and slightly increased again in 2021. It notes the Government’s indication that although Portugal’s trade union membership rate is about 16 per cent, the coverage rate of the collective agreements in force is close to 80 per cent as a result of the issuance of extension ordinances. In this regard, the Committee notes that the statistical data provided by the

Government show a slight decrease in the coverage rate of collective agreements in recent years, as it went from 78.3 per cent in 2017 to 76.6 per cent in 2020. ***The Committee requests the Government to continue providing information on the application of the new extension regime, as well as updated statistical data on the overall coverage of collective agreements in the country.***

Conditions for the expiry of collective agreements. The Committee had previously noted the observations of the General Confederation of Portuguese Workers – National Trade Unions (CGTP-IN) alleging that sections 501 and 502 of the Labour Code, which provide that clauses preventing the expiry of a collective agreement unless it is replaced shall lapse three years after the end of the agreement, contravene the principle of free and voluntary collective bargaining. It also noted the opposite view expressed by the CIP and encouraged the Government to continue promoting social dialogue to endeavour to come up with solutions accepted by the most representative social partners. The Committee notes the Government's indication that the Agreement on Combating Job Insecurity, Reducing Labour Market Segmentation and Promoting More Active Collective Bargaining, which was signed at a meeting of the Standing Committee on Social Dialogue (CPCS) of the Economic and Social Council (CES) on 18 June 2018, included requirements aimed at preventing gaps arising from the expiry of collective agreements, and that sections 500 to 502 of the Labour Code were amended accordingly on 4 September 2019 (Act N0 93/2019). The Committee observes that although certain changes were made to sections 501 and 502, the provision that was denounced by the CGTP-IN and described above remains in force. The Committee also notes that the CIP, in its observations, alleges that Act No. 11/2021 of 9 March 2021 provides for the extension of the time periods for the after-effect of collective bargaining agreements for a period of 24 months (until 10 March 2023). The Committee notes that according to the CIP, the Act encourages inaction and stagnation, and constitutes a barrier to the adoption of new collective agreements. ***The Committee requests the Government to provide its comments in this regard. Encouraged by the fact that the issue of the after-effect of collective agreements has given rise to active tripartite dialogue leading to the adoption of Act No. 93/2019, the Committee requests the Government to continue this tripartite dialogue with regard to the matters raised by the CGTP-IN and the CIP within the framework of the CPCS.***

Compulsory arbitration. In its previous comments, the Committee requested the Government to inform on any new cases involving the application sections 508(1)(c) and 509 of the Labour Code, which allow the Labour Minister to take a reasoned decision to have recourse to compulsory arbitration. It notes that the Government reports that no decision to have recourse to compulsory arbitral under section 508(1)(c) was made during the reporting period. ***The Committee requests the Government to continue to provide information on any new case involving the application of the above-mentioned provisions.***

Representativeness of organizations. The Committee had previously requested the Government to determine and lay down objective, precise and predetermined criteria to evaluate the representativeness and independence of employers' and workers' organizations forming part of the CES and the CPCS, and to amend section 9 of Act No. 108/91, which designates by name the trade union organizations that are to form part of the CES. It had noted the Government's indication that it would consult with the social partners on these matters with a view to identifying basic guidelines jointly for a tripartite agreement. The Committee notes with ***regret*** that the Government does not provide any new information in this regard. ***The Committee once again requests the Government to take the necessary measures, in consultation with the social partners, to establish objective, precise and predetermined criteria to evaluate the representativeness and independence of employers' and workers' organizations forming part of the CES and the CPCS, and to amend the legislation accordingly. The Committee requests the Government to provide information on any progress achieved in this regard.***

Romania

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1957)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the Government's reply to the comments submitted by: (i) the International Trade Union Confederation (ITUC); and (ii) the Block of National Trade Unions (BNS); Confederation of Democratic Trade Unions of Romania (CSDR); and the National Trade Union Confederation (CNS "CARTEL ALFA"), referring to matters examined in this observation.

Article 2 of the Convention. Right of workers to establish and join organizations of their own choosing. Threshold requirements. The Committee notes that in its 2018 observations, the ITUC pointed out that section 3(2) of the Social Dialogue Act (SDA) imposes a minimum requirement of 15 founding members of the same company to set up a union. It further notes that according to the ITUC, this constitutes an insurmountable barrier in a country where the majority of employers are small and medium-sized enterprises, given that 92.5 per cent of all enterprises in Romania employ less than 15 workers and therefore this requirement denies over 1 million workers (42 per cent of the employees) the right to unionize. The Committee notes that in its observations, the CNS "CARTEL ALFA", the BNS and the CSDR raised similar concerns regarding the minimum membership requirements. Noting that the Government does not provide observations in this regard, the Committee recalls that, while it has found that the establishment of a minimum membership requirement in itself is not incompatible with the Convention, it has always been of the view that the number should be fixed in a reasonable manner so that the establishment of organizations is not hindered. It also considers that this criterion should be assessed in relation to the level at which the organization is to be established (for example, at the industry or enterprise level) and the size of the enterprise (see the 2012 General Survey on the fundamental Conventions, paragraph 89). ***The Committee requests the Government, in full consultation with the most representative workers and employers' organizations, to review the minimum membership criteria taking into consideration the high prevalence of small and medium-sized enterprises in the country so as to ensure the right of all workers to form and join the organizations of their own choosing. The Committee requests the Government to provide information on progress made in this respect.***

Scope of the Convention. Retired workers. The Committee had recalled that legislation should not prevent dismissed workers and retirees from joining trade unions, if they so wish, particularly when they have participated in the activity represented by the union. The Committee takes due note of the Government's information that the legislation does not prohibit the maintenance of the membership, or election in the union leadership, in case of dismissal or retirement since the trade union organization and its relations with its members are established by the trade union's statutes according to section 32 of Law No. 62/2011.

Non-standard forms of work. The Committee notes that in its 2018 observations, the ITUC points out that pursuant to section 3(1) of the SDA, day labourers, self-employed workers and workers engaged in atypical employment relationships, which constitute an estimated 25.5 per cent of the total employed population in Romania, are excluded from the scope of the SDA and therefore cannot exercise their trade union rights. ***Recalling that all workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization, the Committee requests the Government to provide its comments thereon. It further invites the Government, in consultation with the social partners, to consider any necessary measures to ensure that workers engaged in non-standard forms of work can benefit from the trade union rights enshrined in the Convention.***

Article 3. Right of workers' organizations to organize their administration, as well as their activities. In its previous comments, the Committee had requested the Government to take measures to: (i) delete or amend section 2(2) of the SDA, according to which workers organizations shall not carry out political activities; and (ii) delete or amend section 26(2) of the SDA, in order to avoid excessive control of trade union finances (powers afforded to state administrative bodies to control the economic and financial activity and payment of debts to the state budget). ***Noting from the Government's report that no progress has been achieved, the***

Committee requests the Government to take measures to delete or amend the above-mentioned sections of the SDA, so as to bring them into line with the Convention.

With respect to the consultations undertaken at the National Tripartite Council for Social Dialogue with a view to amend the SDA, the Committee is addressing these issues in the context of the observations on Convention No. 98.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1958)

[Previous comment](#)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2022 concerning, on the one hand, the matters examined by the Committee in its previous comments and, on the other, allegations of anti-union dismissals. ***The Committee requests the Government to provide its comments in this regard.***

The Committee notes that, according to publicly available information, on 23 November 2022 the Chamber of Deputies adopted a reform of the Social Dialogue Act (SDA) of 2011, which was transmitted to the President of the Republic for promulgation. The Committee notes in this respect that: (i) it has made comments since 2012 on the need to revise the SDA; (ii) the technical advisory mission carried out in May 2022 following the 2021 conclusions of the Conference Committee on the Application of Standards (the Conference Committee) was informed of the ongoing reform process and exchanged views on it with the national tripartite constituents; and (iii) at the request of the Government, the draft reform was the subject of technical comments by the Office in October 2022. ***The Committee welcomes the fact that the Government has availed itself of the technical assistance of the Office in the ongoing legislative reform and requests the Government to provide a copy of the law as soon as it is promulgated. The Committee hopes that its content will take into account the comments it made on the SDA.***

The Committee notes that the Government's report has not been received and is therefore bound to repeat its previous comments. ***Observing that the technical advisory mission covered the various aspects examined by the Committee and the Conference Committee with regard to the application of the Convention, the Committee invites the Government to take into account the points raised by the mission in the preparation of its next report.***

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 109th Session, June 2021)

The Committee notes the discussion which took place in June 2021 in the Conference Committee on the Application of Standards (the Conference Committee) concerning the application of the Convention by Romania. The Committee observes that the Conference Committee, after noting that there were significant compliance issues regarding the Convention in law and practice with respect to the protection against anti-union discrimination and the promotion of collective bargaining, requested the Government to: (i) ensure adequate protection against acts of anti-union discrimination in law and practice in compliance with the Convention; (ii) collect detailed information on the number of cases of anti-union discrimination and employer interference brought to the various competent authorities; the average duration of the relevant proceedings and their outcome; how the burden of proof is applied in such cases affecting trade union officers as well as the sanctions and remedies applied in such cases; (iii) ensure, in law and practice, that collective bargaining with the representatives of non-unionized

workers only takes place where there are no trade unions in place at the respective level; and (iv) amend the law so as to enable collective bargaining for public servants not engaged in the administration of the State in line with the Convention. The Conference Committee also requested the Government to: (i) provide information on all of the above points to the Committee of Experts before its next session in 2021; and (ii) accept an ILO technical advisory mission before the next International Labour Conference.

The Committee observes that in its report the Government essentially reiterates the information already provided to the Conference Committee.

Articles 1, 2 and 3 of the Convention. Effective protection against acts of anti-union discrimination and interference. In its previous comments, the Committee requested the Government to: (i) take measures to amend the legislation in order to guarantee that acts of anti-union discrimination are subject to specific and dissuasive sanctions; (ii) indicate how the burden of proof is placed in cases of allegations of anti-union discrimination affecting trade union officers; (iii) provide detailed statistical information on the number of cases of anti-union discrimination and employer interference brought to the various competent authorities, the average duration of the relevant proceedings and their outcome, as well as the sanctions and remedies applied in such cases; and (iv) ensure that anti-union practices, and in particular preventive measures, would be subject to tripartite discussions. The Committee notes that the Government indicates that, following consultations with the social partners, the Labour Code was amended in 2020 by Law 151/2020 to ensure a proper recognition of harassment, intimidation and victimization of employees and their representatives, including in the exercise of legitimate trade union rights and activities, with dissuasive sanctions applied effectively. It indicates that: (i) section 5, paragraph 2 of the Labour Code, as amended, explicitly prohibits direct or indirect discrimination based on membership or trade union activity; (ii) section 59(a) of the Labour Code was amended to explicitly prohibit dismissal based on trade union affiliation or activity; and (iii) section 260(1)(r) of the Labour Code, as amended, provides that non-compliance with the provisions of section 5, paragraphs (2)–(9), and of section 59(a) is sanctioned with fines between 1,000 LEI and 20,000 LEI (equivalent to US\$229 and US\$4,575 respectively). Regarding the burden of proof in cases of union discrimination against union leaders, the Government indicates that, as provided for in section 272 of the Labour Code, the burden of proof with regard to labour disputes rests with the employer. The Committee notes that in the ITUC's view, section 260 of the Labour Code does not permit verification of the extent to which the legislation is effective and sufficiently dissuasive. The Committee also takes note of the Government's indication that no fines were applied for violations of the law related to union membership or activity between January 2020 and April 2021. The Committee finally notes that, at the discussion held at the Conference Committee, the Government indicated that the Ministry of Justice manages the courts databases and that data is collected with a particular nomenclature that did not allow the Government to identify the type of statistical information requested by the Committee.

The Committee takes note of the information provided by the Government. As regards sanctions, the Committee recalls the importance of legislation prohibiting acts of anti-union discrimination to be accompanied by dissuasive sanctions and rapid and effective procedures. In this respect, the Committee considers that the amount of the fines established in the Labour Code might not be sufficiently dissuasive, particularly for large enterprises. The Committee also recalls that, with respect to anti-union dismissals the reinstatement with retroactive compensation constitutes, in the absence of preventive measures, the most effective remedy. The Committee finally recalls the importance of statistical information for the Government to fulfil its obligation to prevent, monitor and sanction acts of anti-union discrimination. **Based on the above, the Committee requests the Government to: (i) take measures, after consultation with the representative social partners, to strengthen the existing sanctions in cases of anti-union discrimination in order to ensure their effectiveness and dissuasiveness, particularly for large enterprises; (ii) indicate whether reinstatement is an available remedy in cases of dismissal based on trade union affiliation or activity; and (iii) gather and communicate information on the number of cases of anti-union discrimination and employer**

interference brought to the various competent authorities, the average duration of the relevant proceedings and their outcome, as well as the sanctions and remedies applied in such cases. As mentioned in its previous comments, the Committee further requests the Government to ensure that anti-union practices, and in particular preventive measures in this respect, will be subject to tripartite discussions.

Article 4. Promotion of collective bargaining. The Committee notes that Case No. 3323 concerning, inter alia, allegations of shortcomings and gaps in the national legislation with respect to collective bargaining was examined by the Committee on Freedom of Association (CFA) (393rd Report, March 2021). The Committee notes that the CFA referred to it the legislative aspects of the case, related to issues that have been the subject of comments by this Committee since the adoption of the Social Dialogue Act (SDA) in 2011.

Collective bargaining at the company level. In its previous comments, against the background of a sharp decline in collective bargaining coverage in the country following the adoption of the SDA, the Committee noted that a number of aspects of the SDA and its implementation raised issues of compatibility with the Convention. The Committee noted in particular the high representativeness threshold required to negotiate at company level (50 per cent plus one of the workers of the company) and the fact that the SDA allowed elected workers' representatives to bargain collectively for the totality of workers of the company. In its last comment, while noting the Government's indication that, following a 2016 amendment to section 134.2 of the law, negotiation with elected workers' representatives was now only possible in the absence of a trade union, the Committee had noted with concern the statistical data provided by the ITUC according to which 86 per cent of all collective agreements signed were by elected workers' representatives and only 14 per cent by trade unions. On that basis, the Committee had requested the Government to amend the threshold applicable to negotiations at the company level so as to effectively promote collective bargaining, to clarify whether the negotiating powers granted to the elected workers' representatives existed only when there is no trade union and to provide its comments on the statistics provided by the ITUC.

As regards the representativeness thresholds established by the legislation with respect to collective bargaining at the company level, the Committee notes that, in its replies to the CFA, the Government clarified that voluntary bargaining is not conditioned by the representativity of the organizations since minority unions have the right to bargain collectively based on mutual recognition and can conclude collective agreements applicable to members of the signatory parties. The Committee notes the ITUC observations in this respect, according to which, while the Government states that nothing prevents trade unions from negotiating for their members at the company level, given their lack of representativeness, the agreements reached have no erga omnes effect. With regard to the impact of negotiations conducted by elected workers' representatives on the right to collective bargaining recognized by the Convention to trade unions, the Committee notes that the Government refers to a draft revision of the SDA currently being adopted but does not comment on the ITUC's observations that the vast majority of company collective agreements were still signed by elected workers' representatives to the detriment of trade unions. The Committee notes in this respect that, in its 2021 observations, the ITUC adds that: (i) while the Government states that collective bargaining through elected representatives is only possible in companies that do not have a representative union, the fact that the required representativeness threshold is 50 per cent plus one means in practice that in the majority of companies it is the elected representatives who negotiate instead of the unions who do not reach that threshold; (ii) elected representatives have concluded over 92 per cent of collective agreements in the private sector; and (iii) the procedure for electing representatives does not allow trade unions to present lists when they are affiliated to a federation at the branch level.

The Committee recalls that, under the terms of the Convention, collective bargaining with non-union actors should only be possible when there are no trade unions at the respective level. The Committee also recalls that, by virtue of *Article 4* of the Convention, the Government has the obligation

to effectively promote free and voluntary collective bargaining in a manner appropriate to national conditions. ***Expressing its concern at the persistent indications of a very low level of bargaining coverage and noting the recommendations of the Committee on Freedom of Association in Case No. 3323, the Committee requests the Government to take the necessary measures to promote collective bargaining between workers' and employers' organizations and to ensure that the existence of elected workers' representatives is not used to undermine the position of the workers' organizations concerned. In this regard, the Committee specifically requests the Government to: (i) specify how the mutual recognition between an employer and a minority trade union mentioned by the Government takes place in practice; (ii) provide information on the number of collective agreements concluded at the enterprise level, indicating those concluded by minority trade unions on behalf of their own members; (iii) clarify whether, under section 134(2) of the SDA, the negotiating powers granted to the elected workers' representatives exist only when there is no trade union at the respective level; and (iv) take the necessary measures to ensure that agreements concluded with elected representatives prior to the 2016 amendment to the SDA do not have the effect of continuing to undermine the position of trade unions.***

Collective bargaining at the sectoral and national levels. The Committee recalls that in its previous comments, it had taken note of the information from both the Government and the trade unions concerning the drastic decrease in the number of sectoral collective agreements following the changes introduced by the SDA. The Committee had therefore requested the Government to take the necessary measures to amend the representativeness thresholds so as to effectively promote collective bargaining at all levels. The Committee notes the absence of specific information from the Government in this respect. Taking due note of the conclusions and recommendations of the CFA in Case No. 3323, the Committee recalls once again that collective bargaining should be possible at all levels and that the Government has an obligation to ensure effective promotion of collective bargaining in a manner appropriate to national conditions. ***The Committee therefore reiterates its request to the Government to revise, in consultation with the representative social partners, the relevant thresholds and conditions in order to ensure that collective bargaining is effectively possible at all levels, including the sectoral and national levels. The Committee further requests the Government to provide information on the evolution of the number of collective agreements signed at the different levels above the enterprise level, as well as on the overall coverage of collective bargaining in the country.***

Russian Federation

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1956)

Previous comment

The Committee notes the observations of the Confederation of Labour of the Russian Federation (KTR), communicated with the Government's report and referring to the issues raised by the Committee below, as well as the Government's reply thereon.

The Committee notes that the Committee on Freedom of Association (CFA) drew to its attention the legislative aspects of Case No. 3313 [see 396th Report, October 2021, paragraphs 529–595]. The Committee notes, in particular, the conclusions and recommendations of the CFA with regard to: (1) the right of trade unions to express opinions and (2) the application to trade unions of the legislative provisions regulating non-commercial organizations performing functions of a foreign agent.

Freedom of expression. With regard to a situation where a union's publications criticizing the State's policy were declared as being contrary to the law and the union's statutes, the CFA recalled that the right to express opinions through the press or otherwise is an essential aspect of trade union rights and the full exercise of trade union rights calls for a free flow of information, opinions and ideas within the

limits of propriety and non-violence. The CFA further recalled that freedom of expression which should be enjoyed by trade unions and their leaders should also be guaranteed when they wish to criticize the government's economic and social policy. The CFA requested the Government to take all necessary measures to ensure that the right of trade unions to express opinions, including those criticizing the Government's economic and social policies is duly protected in law and in practice. ***The Committee requests the Government to indicate all steps taken in this respect.***

Foreign agents. Furthermore, and with reference to Case No. 3313, this Committee notes that by virtue of the Law on Non-Commercial Organizations, trade unions must register as organizations performing the functions of a "foreign agent" if they receive funding from foreign sources and that such status entails certain additional obligations imposed on a trade union under sections 24 and 32 of the Law. The Committee further notes that section 32 provides for scheduled (once a year) and unscheduled inspections of non-commercial organizations performing the functions of a foreign agent. The Committee notes that the reasons for unscheduled inspections include the receipt of information from the state authorities, local self-government authorities, citizens or organizations on: (i) a violation of law or its own by-laws by a non-commercial organization performing the functions of a foreign agent; (ii) non-registration as a foreign agent; and (iii) participation in events carried out by a foreign or international non-governmental organization whose activities have been declared undesirable on the territory of the Russian Federation. If during an investigation it appears necessary to obtain documents and/or information through inter-agency information exchange, to undertake complex and/or lengthy research or special expert analyses and investigations, the time limit for carrying out the investigation may be extended to 45 working days. The Committee considers that legislation which seriously hampers activities of a trade union or an employers' organization on the grounds that they accept financial assistance from an international organization of workers or employers to which they are affiliated infringes the principles concerning the right to affiliate with international organizations. The Committee also notes that pursuant to section 32 of the Law, an authorized body can prohibit a non-commercial organization performing the functions of a foreign agent from implementing a programme (or part thereof). Failure to execute that decision entails the liquidation of the organization by a court. The Committee notes heavy penalties set out by the Code of Administrative Offences in connection to the failure to register as a non-commercial organization performing the functions of a foreign agent, and also for production or distribution of materials (including through the mass media and/or the Internet), without indicating that these materials were produced, distributed or sent by a non-commercial organization acting as a foreign agent. In light of the above, the Committee, like the CFA, considers that it is difficult to reconcile the additional bureaucratic burdens imposed on trade unions receiving financial assistance from abroad (including from an international trade union to which they are affiliated), as well as various hefty penalties that can be imposed on the organizations, their leaders and members, with the right of trade unions to organize their administration, to freely organize their activities and to formulate their programmes as well as with the right to benefit from international affiliation. The Committee recalls that the control exercised by the public authorities over trade union finances should not normally exceed the obligation to submit periodic reports. The discretionary right of the authorities to carry out inspections and request information at any time entails a serious danger of interference in the internal administration of trade unions. ***The Committee therefore urges the Government to take the necessary steps to find an appropriate solution through social dialogue in order to ensure that the regulations on non-commercial organizations performing the functions of a foreign agent are compatible with the rights of trade unions, and employers' organizations, under the Convention. The Committee requests the Government to provide information on all measures taken in this respect.***

The Committee notes with ***utmost concern***, from the Kremlin website (www.kremlin.ru), the entry into force, on 1 December 2022, of the Law on Control of Activities of Persons Under Foreign Influence. The Committee notes that pursuant to the new legislation, foreign influence is defined as a support (financial and/or other) provided by, among others, international and foreign organizations, and that

non-compliance with the requirements of the law, which are now more stringent than those described above, entails a dissolution of the organization in question. The Committee notes that while employers' organizations are explicitly excluded from its scope, trade unions are not. ***The Committee urges the Government to take all necessary steps to exclude trade unions and their organizations from the scope of application of the new Law and to inform the Committee of all measures taken in this respect.***

The Committee notes, from the Official Internet Portal of Legal Information, the entry into force, on 5 December 2022, of the related legislation, the Law on Amendments to Certain Legislative Acts of the Russian Federation, which amends, among several other pieces of legislation, Federal Law No. 54-FZ of 19 June 2004 (as amended on 30 December 2020) on Meetings, Rallies, Demonstrations, Marches and Pickets. The Committee notes with ***deep concern*** that the amendment not only restricts areas where a public event can take place to the extent that the organization of demonstrations, marches, pickets might become virtually impossible, but also forbids the organization of such events by foreign agents. ***The Committee requests the Government to provide information on these developments.***

Article 3 of the Convention. Right of workers' organizations to organize their administration and activities. The Committee had previously invited the Government to review, in consultation with the social partners, various categories of the State and municipal civil service with a view to identifying those that may fall outside of the narrowly interpreted category of public servants exercising authority in the name of the State. The Committee notes that the Government reiterates its explanation on the classification of civil service positions in the national legislation set out in section 9 of the Law on State Civil Servants, and indicates that all civil servants covered by that legislation exercise authority in the name of the State. The Committee notes that the KTR reiterates its opinion that far from all civil servants covered by the Law are "officials exercising authority in the name of the State". The Committee questions to what extent "support specialists" (clerical, documentation, IT, accounting, etc. specialists), for example, exercise authority in the name of the State. The Committee recalls that too broad a definition of the concept of civil servant may result in a very wide restriction or even a prohibition of the right to strike for these workers. The Committee welcomes the Government's indication that it is prepared to conduct, where necessary, consultations with social partners regarding possible improvements. ***The Committee reiterates its request and expects the Government to inform it of the outcome of the review, in consultation with the social partners, of various categories of the State and municipal civil service with a view to identifying those that may fall outside of this narrowly interpreted category and whose right to strike should be guaranteed.***

With regard to its previous request to take the necessary measures to amend section 26(2) of the Law on Federal Rail Transport so as to ensure the right to strike of railway workers, the Committee notes the Government's indication that it believes there is no need to amend the legislation on the rail transport, as section 413 of the Labour Code provides that the right to strike may be restricted by federal law. The Government indicates that temporary work stoppages by certain categories of railway workers may pose a threat to the defence of the country and state security, as well as human life and health, and it is therefore reasonable to restrict their right to strike. The Committee reiterates that railway transport does not constitute an essential service in the strict sense of the term where strikes can be prohibited and that instead, a negotiated minimum service could be established in this public service of fundamental importance. ***The Committee reiterates its previous request and expects the Government to take the necessary measures, in consultation with the social partners, to amend section 26(2) of the Law on Federal Rail Transport so as to bring it into full conformity with the Convention. The Committee again requests the Government to provide information on measures taken or envisaged in this respect.***

[The Government is asked to reply in full to the present comments in 2023.]

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1956)

Previous comment

The Committee notes the observations of the Confederation of Labour of the Russian Federation (KTR) communicated with the Government's report and referring to the issues examined by the Committee below, as well as the Government's reply thereon.

Articles 1, 2 and 3 of the Convention. Adequate protection against acts of anti-union discrimination and interference. In its previous comment, the Committee had requested the Government to provide information on the developments regarding the implementation of the proposals by the KTR and the Federation of Independent Trade Unions of Russia (FNPR), pertaining to anti-union discrimination, which the Government and employers' representatives had agreed to examine in the framework of the Russian Tripartite Commission for the Regulation of Social and Labour Relations (RTK). The Committee notes the Government's indication that it believes the cooperation between the relevant federal authorities and the social partners, within the framework of the working group established under the Ministry of Labour to develop proposals to improve the current regulatory legal framework and law enforcement procedure is effective. The COVID-19 pandemic has affected the frequency and format of the working group meetings and the last in-person meeting was held in July 2022. The Government indicates that the issue of discrimination is one of the key subjects of discussion put on the agenda by trade unions. The Committee notes the KTR allegation that the existing mechanisms are inefficient and ineffective in addressing cases of anti-union discrimination. The Committee notes that the Government disagrees with the KTR in this regard. ***The Committee deeply regrets that over 11 years after the above-mentioned proposals were made, there has been no concrete outcome in their implementation and urges the Government to strengthen its efforts to examine and implement the proposals pertaining to anti-union discrimination without further delay, as well as to inform the Committee of all developments.***

Article 4. Parties to collective bargaining. The Committee had requested the Government to amend section 31 of the Labour Code, which provides that when an enterprise trade union represents less than half of the workers in that enterprise, other non-unionized representatives could represent workers' interests, so as to ensure that only in the absence of trade unions at the enterprise, can the authorization to bargain collectively be conferred on other representatives elected by workers. The Committee notes that the Government reiterates its previous explanation of the procedure for the election of a representative body. The Committee further notes that while the Government considers that the legislation in force is balanced and aims at protecting workers' interests and therefore, its amendment would be contrary to workers' interests, it would welcome receiving information on best international practice of trade unions representing the rights and interests of workers. The Committee notes with ***regret*** the KTR's allegation that nothing has been done by the Government to address this long-standing request of the ILO supervisory bodies. ***While welcoming the Government's request for information on best practices, the Committee urges the Government to engage with the social partners in order to review the legislation so as to clearly establish that it is only in the event where there are no trade unions at the workplace that an authorization to bargain collectively could be conferred to other representative bodies. The Committee requests the Government to provide information on any progress made in this respect.***

Promotion of collective bargaining in practice. The Committee notes the KTR's allegation that there are no available statistics on the number of collective agreements concluded and workers covered by such agreements, especially at the regional level. The Committee further notes the KTR allegation of insufficient penalties that can be imposed on employers for not respecting collective agreements. The Committee notes the Government's indication that it is preparing a new draft Code of Administrative

Offences, which has been discussed twice during the working group of the RTK with the participation of the KTR and that the consultations with the social partners will continue in this regard. ***The Committee requests the Government to provide information on the measures taken to promote collective bargaining across the different sectors of the economy and the number of collective agreements concluded and in force, the sectors concerned and the number of workers covered by these agreements.***

Rwanda

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1988)

Previous comment

Articles 2 and 3 of the Convention. Right of workers, without distinction whatsoever, to establish organizations of their own choosing and right of organizations to organize their activities and to formulate their programmes. Civil servants. The Committee notes with **interest** the Government's indication that, according to article 49 of Law No. 017/2020 of October 2020 establishing the general statute governing public servants, a public servant may establish or join a trade union of his or her choice in accordance with the relevant legislation. The Committee also notes that according to articles 3 and 4 of the Law, a public institution may request to be governed by a special statute, established by a Prime Minister's Order. While the special statute is limited to certain modalities laid out in article 4, the Committee notes that the competent authorities may allow these modalities to include any other additional element, except for the salary and benefits. ***The Committee requests the Government to indicate whether special statutes have been established regarding any specific category of public servants and if they contain specific limitations. The Committee further requests the Government to take the necessary measures, in consultation with the social partners, to amend article 4, so as to ensure that the establishment of a special statute does not deprive public servants of their rights under the Convention.***

Right to elect representatives freely. Time limits for registration. Judicial record. The Committee notes that according to Ministerial Order No. 02/MIFOTRA/22 of August 2022, the time frame to process the application for the registration of a trade union or an employers' organization has been reduced from 90 days to 60 days. The Committee considers, however, that this still represents a lengthy registration procedure which may constitute a serious obstacle to the establishment of organizations without prior authorization, as set forth under *Article 2* of the Convention. ***The Committee therefore requests the Government to consider revising Ministerial Order No. 02/MIFOTRA/22 of August 2022 regarding registration of trade unions and employers' organizations with a view to further reducing the registration period such that it does not amount to a requirement of "previous authorization," and to provide information on all developments in this regard.***

The Committee recalls that it had previously requested the Government to amend section 3(5) of Ministerial Order No. 11 of September 2010, according to which, an occupational organization of employers or workers, in order to be registered, has to be able to prove that its representatives have never been convicted of offences with sentences of imprisonment equal to or over six months. The Committee notes that the Government reiterates that a person who leads others is required to prove his or her integrity and that a person who committed a crime punishable for at least six months is no longer a person with integrity. The Committee recalls once again that the conviction for an act which, by its nature, does not call into question the integrity of the person and implies no real risk for the performance of trade union duties should not constitute grounds for exclusion from trade union office. ***The Committee therefore requests once again that the Government take the necessary measures, in consultation with the social partners, to amend section 3(5) of Ministerial Order No. 11, in line with the above.***

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1988)

Previous comment

Articles 1 and 2 of the Convention. Adequate protection against anti-union discrimination and interference. In its previous comments, the Committee had noted with regret that the new Labour Code (Law No. 66/2018 of 30 August 2018) did not contain, beyond the dismissal of trade union representatives, specific provisions prohibiting and punishing acts of anti-union discrimination and interference and was therefore less protective than the repealed legislation. The Committee notes the Government's indication that law No. 68/2018 of August 2018 determining offences and penalties in general provides, in its article 284, that any person vested with public authority or responsible for a public service mission who orders or personally performs an act which violates an individual freedom, except when provided for by the law, commits an offence and is liable to imprisonment for three to five years. The Committee observes that, in addition to being very generic with respect to the type of offences covered, the scope of application of this provision is limited with respect to the authors of the offences as it does not apply to most private employers. In these circumstances, the Committee recalls, that in order to ensure full compliance with the Convention, the legislation must also target private employers and provide explicit protection against all acts of anti-union discrimination and interference. ***The Committee therefore requests the Government to take the necessary measures to ensure that the legislation in force targets private employers and provides adequate and explicit protection against all acts of anti-union discrimination and interference, including the imposition of effective and sufficiently dissuasive sanctions. The Committee requests the Government to provide information in its next report on any progress made in this regard.***

Article 4. Promotion of collective bargaining. The Committee takes due note of Ministerial Order No. 001/19.20 of March 2020 relating to Labour Inspection provided by the Government. The Committee notes that if a labour inspector fails to settle a collective labour dispute, the inspector refers the dispute to the Minister of labour who then submits it to the National Labour Council (article 15), which issues special regulations determining the modalities for the establishment of the arbitration committee and its functioning (article 17). The National Labour Council, after receiving the collective labour dispute from the Minister in charge of Labour, sets up an arbitration committee to settle the collective labour dispute (article 18). ***While recalling that recourse to compulsory arbitration was removed by the new labour Code, the Committee requests the Government to provide information on the special regulations determining the modalities for the establishment of the arbitration board and its functioning, in order to ensure that the rules applicable to the settlement of collective disputes, through the National Labour Council, are fully in line with the principle of free and voluntary collective bargaining established by the Convention.***

Referring to its previous comments under the Collective Bargaining Convention, 1981 (No. 154), the Committee recalls that, according to article 3 of Law No. 66/2018 of August 2018 regulating Labour, a "collective agreement" means a written agreement relating to employment conditions or any other mutual interests between employees' organizations or employees' representatives where there are no such employees' organizations on the one hand, and one or more employers or employers' organizations, on the other hand. In view of the Committee, such a definition could be too restrictive and exclude certain categories of workers. The Committee notes the Government's statement that, according to article 32 of the Constitution of Rwanda, trade unions and employers' associations have the right to engage in collective bargaining and may enter into general or specific agreements regulating their working relations. The Constitution recognizes these rights to all categories of trade unions and employer's associations and does not make any distinction based on the status of employees. While taking note of this information, the Committee wishes to recall that the recognition

of the right to collective bargaining is wide-ranging in scope and should for instance include the self-employed. The Committee further notes that, according to article 2 of Law No. 66/2018, collective bargaining applies to self-employed workers, but only with regard to occupational health and safety. ***The Committee therefore requests the Government to provide information on how the right to collective bargaining is recognized to all categories of workers, irrespective of their contractual status and irrespective of the subject covered by collective bargaining.***

With respect to the extension procedure of collective agreements applicable to at least two thirds (2/3) of the number of employees or employers representing the category of profession (according to article 95 of the new Labour Code), the Committee notes the Government's indication that its applicability depends on the organizations themselves and that, so far, some collective agreements are in place, but not yet extended. ***The Committee requests the Government to keep providing information on the application in practice of article 95 of the new Labour Code.***

The Committee is raising other matters in a request addressed directly to the Government.

Saint Kitts and Nevis

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2000)

Previous comment

The Committee notes that in its report on Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) the Government indicates that the draft of the new Labour Code is in its second phase but has not yet been adopted, mainly due to the COVID-19 pandemic, and that it expects it to enter into force by the end of 2023.

Legislation. Articles 1, 2 and 4 of the Convention. The Committee recalls that in its previous comment it had requested the Government to take the necessary action to ensure that the legislation: (i) provides adequate protection against all acts of anti-union discrimination at the time of recruitment and throughout the course of employment with the application of dissuasive sanctions; (ii) contains specific provisions explicitly providing for rapid appeal procedures, coupled with effective and dissuasive sanctions against acts of interference; and (iii) explicitly recognizes and regulates the right to bargain collectively. The Committee notes the Government's indication that it has issued a cabinet submission to the Competent authority to address the concerns raised by the Committee. ***Highlighting the importance of the current drafting of the new Labour Code the Committee once again requests the Government to take the necessary measures to ensure the adoption of a labour legislation that is in full conformity with the Convention. The Committee requests the Government to provide information on any development in this respect and recalls that it may avail itself of the technical assistance of the Office.***

Promotion of collective bargaining in practice. The Committee notes that the Government indicates that the most recent collective bargaining agreement between a major contributor to the manufacturing industry and the St. Kitts and Nevis Workers Union was concluded as of April 2022 and that between 100 and 150 workers will be concerned by the terms of this agreement. ***The Committee requests the Government to continue to provide information on the number of collective agreements concluded and in force, the sectors concerned, and the number of workers covered by these agreements. The Committee further requests the Government to provide information on the specific measures taken to promote collective bargaining throughout the different sectors of the economy.***

Saint Lucia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1980)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes with **deep concern** that the Government's report, due since 2015, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Convention on the basis of whatever information is at its disposal. The Committee recalls that it has been raising issues concerning the observance of the Convention in an observation and a direct request, with longstanding requests for information on the application of the rights guaranteed by the Convention with respect to fire service personnel, prison staff and public servants. ***Not having received any additional observations from the social partners, nor having at its disposal any indication of progress on these pending matters, the Committee refers to its previous observation and direct request adopted in 2020 and urges the Government to provide a full reply thereto. To this end, the Committee recalls that the Government may avail itself of the ILO's technical assistance.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1980)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes with **deep concern** that the Government's report, due since 2015, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal. The Committee recalls that it has been raising questions concerning compliance with the Convention in an observation, including a longstanding request for the Government to ensure that national legislation expressly recognizes the right to collective bargaining of prison staff and fire service personnel. ***Not having received any observations from the social partners, nor having at its disposal any indication of progress on these pending matters, the Committee refers to its previous observation adopted in 2020, and urges the Government to provide a full reply thereto. To this end, the Committee recalls that the Government can avail itself of the technical assistance of the ILO.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Saint Vincent and the Grenadines

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2001)

Previous comment

Articles 2 and 3 of the Convention. In its previous comment, the Committee referred to the need to amend sections 11(3) and 25 of the Trade Union Act (TUA), so as to eliminate the discretionary authority of the Registrar in respect of the registration of trade unions and to limit the powers of the Registrar to conduct investigations into the accounts of trade unions. The Committee notes the Government's indication that following a series of consultations with the social partners, the revised Labour Relations Bill (LRB) is before the Cabinet. According to the Government, the revised Bill addresses the above-mentioned issues and once enacted, will repeal the TUA. The Committee welcomes draft sections 16 and 19 of the LRB, which would repeal the discretionary authority of the Registrar regarding registration

of organizations and limit the power of the Registrar to receiving an organization's annual return. ***The Committee requests the Government to provide information on all developments regarding the adoption of the LRB, which it expects to be in full conformity with the Convention, and to provide a copy of the Act once adopted.***

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1998)

Previous comment

The Committee notes the Government's indication that following a series of consultations with the social partners, a revised Labour Relations Bill (LRB) is before the Cabinet. According to the Government, the revised Bill, once enacted, will repeal the Trade Unions Act, 1950.

Scope of the Convention. The Government takes note that the LRB excludes from its scope of application workers who do not have an employment contract (section 2(1)). ***Recalling that, with the only possible exceptions set in Articles 5 and 6 of the Convention (armed forces, police and public servants engaged in the administration of the State), the Convention covers all workers, the Committee requests the Government to amend the bill to ensure that the legislation is applicable to all workers irrespective of their contractual status, including independent and outsourced workers and workers without employment contract.***

Articles 1 and 2 of the Convention. Protection against acts of anti-union discrimination and interference. In its previous comment, the Committee expressed its hope that the revision of the LRB would lead to the adoption of a legislation providing protection for workers' and employers' organizations against acts of interference by each other, protection against acts of anti-union discrimination, as well as encouraging collective bargaining in the public and private sectors.

The Committee welcomes sections 7 and 8 of the Bill which respectively pertain to the protection against acts of anti-union discrimination and the protection against acts of interference by employers. The Committee notes that both sections mention sanctions in the event of a violation of those protections. ***Welcoming both sections of the revised LRB, the Committee requests the Government to provide information on whether the anti-union nature of dismissal or any other act by the employer also result in the reinstatement of the worker in the conditions of work or employment applicable prior to the anti-union act.***

Article 4. Promotion of collective bargaining. The Committee welcomes Parts III and IV of the Bill which highlight the duty of parties to negotiate in good faith, as well as the enforceability of collective agreements. The Committee notes that, pursuant to section 27(1), a trade union claiming to have the majority of union members in good standing (members who have complied with all their obligations with regard to their union) belonging to a bargaining unit may submit an application to the Tripartite Body to obtain certification as the exclusive bargaining agent of the bargaining unit. It further notes the absence of a provision regulating the case that no organization holds the necessary majority to be certified as the exclusive bargaining agent of the bargaining unit. ***The Committee requests the Government to provide information on collective bargaining rights of minority unions where no union meets the requirements to become the exclusive bargaining agent.***

Promotion of collective bargaining in practice. ***The Committee requests the Government to provide information on the actions taken to promote collective bargaining both in the public and private sectors. The Committee further requests the Government to provide information on the number of collective agreements concluded and in force, the sectors concerned, and the number of workers covered by these agreements.***

The Committee expects that the LRB will soon be adopted and that the present comments will be taken into account so that it gives full effect to the Convention. The Committee requests the Government to provide information on any progress made in this regard.

Sao Tome and Principe

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1992)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Adequate protection against anti-union discrimination and interference. In its previous comments, the Committee requested the Government to take the necessary measures so as to ensure that its legislation imposes sufficiently effective and dissuasive sanctions against acts of anti-union discrimination and interference. The Committee notes the Government's indication that the new Labour Code adopted in 2019 has not introduced any changes in this respect but that it continues to contain a number of specific provisions that give application to *Articles 1 and 2* of the Convention. The Committee notes in this respect that the legislation in force: (i) comprehensively prohibits acts of anti-union discrimination and interference; (ii) contains rules for adjusting the burden of proof to facilitate the determination of the existence of anti-union discrimination; (iii) establishes enhanced protection for trade union representatives and candidates for the post of representatives against acts of anti-union discrimination; (iv) provides for the reinstatement of workers in the event of unlawful dismissal; and (v) establishes fines and a sanction of imprisonment in the event of acts of anti-union interference. The Committee takes due note of these elements. It continues however to observe that the provisions of the Labour Code do not provide for specific sanctions for acts of anti-union discrimination affecting workers who are not trade union representatives or candidates for the post of representatives. ***The Committee therefore requests the Government to take the necessary measures to ensure that the legislation provides for effective and dissuasive sanctions against acts of anti-union discrimination that apply to all workers covered by the Convention. The Committee requests the Government to provide information on any progress made in this regard in its next report.***

Article 4. Promotion of collective bargaining. Absence of a legal framework for the exercise of the right to collective bargaining and absence of collective bargaining in practice. The Committee previously expressed concern at the absence of collective agreements in the country, highlighting that the absence of a legal framework could hamper the exercise of the right to collective bargaining. The Committee notes that while the Government states that its legislation still does not provide a legal framework for collective bargaining, it acknowledges the need to facilitate the collective bargaining process in the country in order to reverse the current situation and indicates that meetings of the National Council of Social Concertation have taken place. ***The Committee once again requests the Government to take all the necessary measures, both in law and practice, to encourage and promote the development and utilization of collective bargaining, and requests it to provide information on the concrete steps taken in this regard.***

The Committee reiterates that the technical assistance of the Office is available to the Government in relation to the various matters raised in this observation.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 2005)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes with **regret** that the Government's report does not provide any response to the questions the Committee has raised in the comments it has been making for many years on the implementation of several essential provisions of the Convention. ***The Committee is, therefore, bound to reiterate them and urges the Government to take all the measures required on each of the following points.***

Article 4 of the Convention. Adequate protection against acts of anti-union discrimination. The Committee previously noted the Government's indication that there is no legislation establishing penalties for acts of anti-union discrimination. **The Committee once again requests the Government to take the necessary measures for the adoption of legislative provisions imposing sufficiently effective and dissuasive sanctions for acts of anti-union discrimination.**

Article 5. Adequate protection against acts of interference. The Committee previously noted that the legislation does not establish sanctions for acts of interference. **The Committee once again requests the Government to take the necessary measures to adopt legal provisions imposing sufficiently effective and dissuasive sanctions for acts of interference against trade union organizations of public employees.**

Article 8. Settlement of collective disputes. The Committee previously noted that section 11 of the Act on Strikes provides for compulsory arbitration, but that the legislation does not establish any mechanism for mediation or conciliation in the event of a dispute between the parties. The Committee noted the Government's indication that matters relating to the mediation of disputes in the public administration fall within the remit of the Directorate of the Public Administration and not the Labour Directorate. **The Committee once again requests the Government to provide additional information on the settlement of collective disputes in the public administration, and in particular to indicate whether the Act referred to above applies to employees of the public administration, and to provide detailed information on the mediation mechanisms that are under the responsibility of the Directorate of the Public Administration.**

Recalling that it may request the technical assistance of the Office, the Committee trusts that the Government will adopt the necessary measures in the near future.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Collective Bargaining Convention, 1981 (No. 154) (ratification: 2005)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 5 of the Convention. Collective bargaining in the public administration. The Committee notes the Government's indication in its report that collective bargaining does not apply to the public service. **The Committee requests the Government to indicate the obstacles preventing the application of collective bargaining to public servants and to take all measures at its disposal to make possible and promote collective bargaining in the public service with a view to giving effect to Article 5 of the Convention.**

Legal framework for the exercise of collective bargaining. The Committee notes that, in the context of the application of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Government indicates that the Bill establishing the legal framework for collective bargaining has still not been adopted. **The Committee requests the Government to inform it of the ongoing legislative process and it firmly hopes that all appropriate measures will be taken for the adoption of the necessary regulation to promote collective bargaining.**

Article 6. Mediation. The Committee notes the Government's indication that the Labour Directorate of the Ministry of Employment and Social Affairs only acts as a mediator in disputes between employers and workers in the private sector.

Article 7. Consultation and negotiation with employers' and workers' organizations. The Committee reminded the Government in previous comments that, under the terms of the Convention, consultation and negotiation with the most representative organizations of workers and employers has to be promoted during the process of determining the rules for collective bargaining procedures. **The Committee once again requests the Government to take measures for this purpose.**

Application in practice. The Committee previously noted the Government's indication that there are currently no collective agreements in the country in view of its geographical size. **The Committee expresses concern in this regard and once again invites the Government to have recourse to ILO technical assistance to resolve this important problem.**

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Senegal

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

Previous comment

The Committee notes the observations of the National Confederation of Workers of Senegal (CNTS) and the National Federation of Independent Trade Unions of Senegal (UNSAS), received in August 2022, relating to matters already addressed by the Committee.

Bringing the legislation into conformity with the Convention. While taking note of the information concerning the Labour Code reform process and ILO technical assistance in this regard, the Committee once again notes with **deep regret** that the Government has not reported any progress in bringing the legislation into conformity with the Convention and has only reiterated that the Committee's recommendations will be taken into account in the ongoing reform. **Consequently, the Committee is bound to recall most of its recommendations and trusts that the reform under way will, in the near future, give full effect to the provisions of the Convention.**

Article 2 of the Convention. Trade union rights of minors. **The Committee urges the Government to report on any progress made in amending section 11 of the Labour Code to allow minors to freely join trade unions, once they have reached the minimum age for access to employment, as provided for in the Labour Code.**

Articles 2, 5 and 6. Right of workers to establish organizations of their own choosing without previous authorization. **The Committee urges the Government to take without delay measures to repeal the legislative provisions that restrict the freedom of workers to establish organizations of their own choosing (provisions of Act No. 76-28 of 6 April 1976, incorporated in section L.8 of the Labour Code), and particularly the provisions concerning the morality and aptitude of trade union leaders or those which grant de facto to the authorities the discretionary power of previous authorization, which is contrary to the Convention.**

Article 3. Right of trade union organizations to exercise their activities in full freedom and to formulate their programmes. Requisitioning in the event of a strike. **The Committee urges the Government to take the necessary measures to ensure that the implementing Decree of section L.276 of the Labour Code authorizes the requisitioning of workers only to ensure the operation of essential services in the strict sense of the term.**

Occupation of workplaces in the event of a strike. **The Committee urges the Government to take the necessary measures to limit the restrictions provided for in section L.276 of the Labour Code to ensure that they only apply in cases when strikes cease to be peaceful or when respect for the freedom to work of non-strikers and the right of the management to enter the premises of the enterprise are hindered.**

Article 4. Dissolution by administrative authority. **The Committee urges the Government to take the necessary measures to amend the legislation such that the dissolution of seditious organizations, provided for by Act No. 65-40 of 22 May 1965 on associations, may in no event be applied to professional organizations.**

Trade union rights of customs workers. Referring to the recommendations of the Committee on Freedom of Association in case No. 3209 (384th Report, March 2018), **the Committee once again requests the Government to indicate the measures taken or envisaged to amend section 8 of Act No. 69-64**

(the Customs Staff Regulations Act) in order to remove any obstacles to the exercise of trade union rights.

Serbia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2000)

Previous comment

The Committee notes the observations of the Confederation of Autonomous Trade Unions of Serbia (CATUS), transmitted with the Government's report and alleging difficulties in establishing trade union organizations in practice due to complex and lengthy procedures. **The Committee requests the Government to provide its comments in this regard.**

Article 2 of the Convention. Right of employers to establish and join organizations of their own choosing without previous authorization. The Committee recalls that for a number of years it has been commenting upon the need to amend section 216 of the Labour Act, which provides that employers' associations may be established by employers that employ no less than 5 per cent of the total number of employees in a certain branch, group, subgroup, line of business or territory of a certain territorial unit, in order to establish a reasonable minimum membership requirement. In this respect, the Committee had noted the Government's indication that the Committee's comments on section 216 would be taken into consideration in the course of the amendment of the Labour Act. The Committee **regrets** that the Government merely reiterates the information it had previously provided, specifically that the Ministry of Labour, Employment, Veterans and Social Affairs has the intention of amending the Labour Act in the context of further harmonization of the legislation with the EU acquis and international standards of the ILO. **The Committee urges the Government to take all necessary steps to expedite the process for amendment of the Act, in consultation with social partners, so as to lower the requirement relating to the minimum number of employees for the establishment of employers' organizations. It requests the Government to provide information on all progress made in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2000)

Previous comment

The Committee notes the observations of the Confederation of Autonomous Trade Unions of Serbia (CATUS) and the Serbian Association of Employers, transmitted with the Government's report, on the application of the Convention in practice. The Committee notes that in addition, the CATUS alleges that certain collective agreements, in particular those concluded with the State as an employer, reduce the legal rights of workers. **The Committee requests the Government to provide its comments in this regard.**

The Committee notes the Government's comments in reply to the observations of the International Trade Union Confederation (ITUC), the Trade Union Confederation "Nezavisnost", and the CATUS, received in 2018 and alleging in particular anti-union discrimination and violations of good faith collective bargaining in practice. The Committee notes the Government replies concerning the applicable legislation, but observes that it does not provide information with regard to the specific allegations raised in the respective observations. **The Committee requests the Government to provide its comments in this regard.**

Furthermore, the Committee notes with **regret** that the Government did not provide a reply to previous observations from the following workers' and employers' organizations: (i) CATUS and the Trade Union of Judiciary Employees of Serbia (TJES) (2013); (ii) the International Organisation of Employers (IOE) and the Serbian Association of Employers (SAE) (2013); (iii) the Union of Employers of Serbia (UES) (2012 and 2014); (iv) the ITUC (2015); (v) Nezavisnost (2012); and the Confederation of Free Trade Unions (2012). **The Committee urges the Government to provide its comments to the mentioned outstanding social partners' observations and trusts that it will show greater cooperation in the future.**

Article 1 of the Convention. Protection against anti-union discrimination in practice. In its previous comments, the Committee had requested the Government to provide further details on the anti-union discrimination cases handled by the Commissioner for the Protection of Equality, as well as information on the labour inspection and judicial proceedings related to anti-union discrimination cases, their average duration and outcomes. The Committee notes that the Government indicates the Commissioner's records related to anti-union discrimination cases: (i) from June 2021 to June 2022, trade union membership or activity was invoked as grounds for discrimination in four cases of which one case is still ongoing while the proceedings of the other three cases were suspended in accordance with the conditions set by the law; (ii) since the establishment of the Office of the Commissioner in May 2010, discrimination based on trade union membership or membership of other organizations is the third most frequent allegation of discrimination in employment and occupation, after discrimination based on gender and on marital and family status; (iii) in those cases where anti-union discrimination has been established, the Commissioner has recommended the employer to take all the necessary measures in order to eliminate the consequences of the discriminatory behaviour; and (iv) the Commissioner has also initiated 22 strategic lawsuits on behalf of discriminated persons but none of these cases involved trade union membership as grounds for discrimination. The Government adds that the Commissioner's obligation to keep the records on discrimination cases pursuant to the 2021 amendments to the Law on the Prohibition of Discrimination will also include in the near future the relevant court decisions. The Committee takes note of this detailed information. It observes, however, that, despite the frequency of the allegations of anti-union discrimination reported by the Government, it has not been informed of any cases where specific sanctions have been imposed in this respect. The Committee recalls in this regard the need, in order to ensure an effective protection against anti-union discrimination, to provide for dissuasive sanctions through effective and rapid procedures. **In order to be able to evaluate the effectiveness of the different mechanisms available in case of anti-union discrimination, the Committee therefore urges once again the Government to: (i) provide specific information on labour inspection and judicial proceedings related to anti-union discrimination cases, their average duration and outcomes; and (ii) to continue providing information on anti-union discrimination cases handled by the Commissioner including details on the final outcomes of the referred cases.**

Article 4. Promotion of collective bargaining. Representativeness of workers' and employers' organizations. The Committee had previously requested the Government to indicate whether the amended section 229 of the Labour Act had improved the operation and efficiency of the Representativeness Board when dealing with requests to grant representativeness and whether the Government was developing any further amendments to the Labour Act in this regard. The Committee notes that according to the Government, the criteria for determining the representativeness of trade unions and employers' associations are clearly defined in sections 218–237 of the Labour Act, and the amended section 229 of the Act improves the work of the Board as the decision-making is no longer made by consensus of all Board members but by a majority of votes. The Committee further recalls that the amendments to section 229 provide for the Minister of Labour to decide on a request for representativeness without the Board's approval if the latter fails to submit a proposal to the Minister within 30 days from the date of the request. It recalls in this respect that the determination of the representative status of organizations for the purposes of bargaining should be carried out in accordance with a procedure that offers every guarantee of impartiality, by an independent body that

enjoys the confidence of the parties, and without political interference. ***Reiterating that methods for the determination of the most representative organizations should be based on objective, pre-established and precise criteria, the Committee requests once again the Government to indicate whether the amendments to section 229 of the Labour Act have improved the Representativeness Board's operation and efficiency when dealing with requests to grant representativeness, and to provide in particular specific information about: (i) how section 229, as amended, is applied in practice; (ii) the number of cases and more details on the cases in which the Minister has decided on the requests for representativeness without the Board's approval; (iii) whether any further amendments to the Labour Act are being developed in this regard.***

Percentage required for collective bargaining. The Committee had previously referred to the need to amend section 222 of the Labour Act, with a view to lifting the 10 per cent requirement for employers' organizations to be entitled to engage in collective bargaining. The Committee notes with **regret** that the Government in its report merely recalls the content of section 222 and provides no further information in this regard. ***Recalling that for a number of years it has been commenting on the discrepancies between section 222 of the Labour Act and the Convention, the Committee urges the Government to take all necessary steps to expedite the process for amendment of this Act, in consultation with social partners, so as to bring the legislation into conformity with the requirements of the Convention by lowering the above-mentioned percentage. It requests the Government to provide information on all progress made in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Workers' Representatives Convention, 1971 (No. 135) (ratification: 2000)

Previous comment

The Committee notes the observations of the Confederation of Autonomous Trade Unions of Serbia (CATUS), transmitted with the Government's report and alleging inadequate protection of trade union representatives. ***The Committee requests the Government to provide its comments in this regard.***

The Committee notes that the Government did not provide a reply to previous observations from the CATUS of 18 November 2014, alleging violations of the Convention in practice, and the reduced protection of the workers' representatives due to the expiry of the 2008 General Collective Agreement. ***The Committee once again requests the Government to provide its comments in this regard.***

Article 6. Collective agreements giving effect to the Convention. The Committee had previously requested the Government to indicate which legal mechanism was used to repeal the 2008 General Collective Agreement and the reasons for this action. The Committee notes the Government's indication that the General Collective Agreement was concluded by the representative association of employers (the Union of Employers of Serbia) and the representative trade unions, established for the territory of the Republic of Serbia (namely, the CATUS and the Trade Union Confederation "Nezavisnost"), for a period of three years, and that upon the expiration of this term, the agreement has ceased to apply. The Government adds that, pursuant to the Labour Law, the Government is not a participant in concluding a general collective agreement. ***The Committee requests the Government to provide information on the effects of the expiry of the 2008 General Collective Agreement on the implementation of the Convention, including whether the facilities for workers' representatives under this Agreement have been maintained, and if this is not the case, to indicate how appropriate facilities in undertakings are afforded to workers' representatives in order to enable them to carry out their functions promptly and efficiently.***

Seychelles

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1978)

Previous comment

The Committee notes the observations of the Association of Seychelles Employers (ASE) and the Seychelles Chamber of Commerce and Industry (SCCI), communicated with the Government's report, as well as the Government's statement pertaining to the status of the review of the Industrial Relations Act (IRA) set out below.

In its previous comment, the Committee had requested the Government to provide information on the developments regarding the review of the IRA, particularly the amendments of its following provisions:

- section 9(1), so as to repeal the Registrar's discretionary power to refuse registration;
- section 52(1)(a)(iv), so as to reduce the majority required to declare a strike to a simple majority;
- section 52(1)(a)(iii), so as to consider shortening the length of the cooling-off period;
- section 52(4), so as to ensure that the responsibility for declaring a strike illegal does not lie with the government authorities, but with an independent body which has the confidence of the parties involved; and
- section 56(1), which imposes penalties of up to six months of imprisonment for organizing or participating in a strike declared unlawful.

The Committee notes the Government's indications that a report with the recommendations for amendments developed by an ILO consultant in 2021 is currently under review by the Ministry of Employment and Social Affairs. According to the Government, the report contains recommendations: to repeal section 9; to provide that the strike ballot "shall be successful where it obtains the support of a majority of the workers in the bargaining unit concerned by the labour dispute"; to amend section 56(1) so as to limit the penalty to solely a monetary fine, as opposed to a monetary fine combined with imprisonment; and to set up a Commission for Conciliation and Mediation which will have statutory powers to create a deadlock breaking mechanism and prevent strike action. No recommendation has been made regarding the authority to declare a strike unlawful. The Government indicates that it is yet to finalize its position on the proposals. While taking due note of the work carried out with the technical assistance of the ILO, the Committee recalls that it has been requesting the Government to amend the IRA for a number of years. ***It therefore urges the Government to take all necessary steps to expedite the legislative review, in consultation with the social partners, and to take into account the Committee's previous comments, including its expectation that the amendment of section 52(1)(a)(iv) will continue to ensure that account is taken only of votes cast, as well as its comments on provisions apparently not mentioned in the consultant's report. The Committee requests the Government to provide information on the developments in this regard.***

The Committee notes the Government's indication that while the 45 days cooling-off period is not preceded by compulsory prior mediation or conciliation procedure and begins at the time of the reporting of the dispute to the Minister, in its view, it is possible to further shorten it to 30 days, in consultation with the social partners. ***Recalling that the period of advance notice should not be an additional obstacle to bargaining, the Committee requests the Government to provide information of developments in this respect.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1999)

Previous comment

The Committee notes the observations of the Association of Seychelles Employers (ASE) – Seychelles Chamber of Commerce and Industry (SCCI) communicated with the Government's report.

Articles 2, 4 and 6 of the Convention. Pending legislative matters. The Committee recalls that for many years it has been requesting the Government to take measures to amend several provisions of the Industrial Relations Act (IRA) in order to: (i) provide for an effective protection against acts of interference by employers or their organizations in workers' organizations; and (ii) ensure that recourse to compulsory arbitration in cases where the parties do not reach an agreement through collective bargaining is permissible only in relation to public servants engaged in the administration of the State, essential services in the strict sense of the term and acute national crises. The Committee notes the Government's indication that: (i) an ILO consultant was mandated to undertake the review of the IRA; (ii) as a result, a draft report with recommendations was submitted to the Ministry of Employment and Social Affairs (MESA) and to the ILO in 2021; (iii) the report is currently reviewed by the MESA; and (iv) once the review of the report is completed, the MESA will meet with stakeholders for validation. **The Committee hopes that the legislation will soon be amended in order to bring it into full conformity with the Convention. The Committee requests the Government to provide information in this respect.**

Promotion of collective bargaining in practice. **The Committee requests the Government to provide information on: (i) the measures taken to promote collective bargaining across the different sectors of the economy; and (ii) the number of collective agreements concluded and in force, the sectors concerned, and the number of workers covered by these agreements.**

Sierra Leone

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1961)

Previous comment

The Committee observes with **regret** that the Government's report does not address its previous comment, initially made in 2013, on the allegations of the International Trade Union Confederation (ITUC) concerning restrictions to collective bargaining in the mining sector. **The Committee is therefore bound to reiterate its previous request for comments in this regard.**

The Committee previously expressed its hope that the Government, availing its assistance, would give full effect to the Convention by reviewing the labour legislation in consultations with its social partners. The Committee, in this regard, notes the Government's indication that the review has resulted in the development of a draft Employment Bill, 2022, and that the draft Industrial Relations and Trade Union Bill, 2022 (IR Bill) was elaborated post review of the Regulation of Wages and Industrial Relations Act No.18 of 1971.

Scope of application of the Convention. Fire force and correctional service personnel. The Committee observes that while the draft IR Bill does not explicitly exclude members of the fire force or correctional service personnel, the scope of the Employment Bill covers only civilian workers of either category. The Committee recalls that, with the sole exceptions set out in its articles 5 and 6, the rights and safeguards set out in the Convention apply to all workers, including fire service personnel and prison staff (2012 General Survey on the fundamental Conventions, paragraph 209). **The Committee requests the Government to indicate any other regulation that would grant to the non-civilian members of the fire force and the correctional services the rights recognized by the Employment Bill that give application**

to the Convention and to ensure that these categories of workers are in a position to fully benefit from all its provisions.

Workers with supervisory responsibilities. The Committee previously requested the Government to take measures to ensure that workers with supervisory responsibilities could bargain collectively. The Committee welcomes the Government's indication that the draft IR Bill includes within its scope, those with supervisory responsibilities (section 2(1)).

Other categories of workers. The Committee observes however that section 2(4) of the draft IR Bill allows the Minister, after consultations with the Joint Consultative Committee (section 13), to exempt any person or class of persons or any trade, industry or undertaking with terms and conditions of employment governed by special arrangements, from the coverage of the legislation. **Recalling once again the very broad scope of the Convention, the Committee requests the Government to review section 2(4) of the draft IR Bill so as to ensure that all workers, with the only possible exception of the armed forces, the police and the public servants engaged in the administration are effectively covered by the legislation that gives application to the different provisions of the Convention.**

Articles 1 and 2 of the Convention. The Committee previously requested the Government to take the necessary action to adopt specific legislative provisions, including effective and dissuasive sanctions against acts of anti-union discrimination and interference. The Committee welcomes the inclusion of provisions prohibiting and sanctioning acts of anti-union discrimination in the draft Employment Bill. **The Committee however requests the Government to take the necessary steps to ensure that the future legislation also includes provisions that provide effective protection against acts of interference in accordance with Article 2 of the Convention.**

Article 4. Promotion of collective bargaining. The Committee observes that section 37 of the draft IR Bill lays down the provision for the issuance of collective bargaining certificates by the Government. **The Committee requests the Government to provide details regarding the objective criteria and procedures for the determination of a union's eligibility to hold a collective bargaining certificate under the draft IR Bill.**

Collective bargaining in practice. The Committee previously requested the Government for information on the measures taken to promote collective bargaining, with detailed statistics on collective agreements concluded. **While noting the Government's indication that the Ministry of Labour and Social Security: (i) issues collective bargaining certificates to registered trade unions; and (ii) publishes collective bargaining agreements reached between employers and workers, the Committee reiterates its request for information on the number of collective agreements in force, the sectors concerned, and the number of workers covered, in addition to any measures undertaken to promote the development of collective bargaining.**

The Committee requests the Government to provide information on the adoption of the two bills mentioned above and hopes that the consideration of the present comments will contribute to ensure the full conformity of the legislation with the Convention.

Slovenia

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1992)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 2 and 3 of the Convention. Protection against acts of interference. In its previous comments, the Committee had requested the Government to take the necessary measures to ensure that national legislation contained specific provisions prohibiting acts of interference by employers or their organizations in the establishment, functioning and administration of workers' organizations, and providing effective and

sufficiently dissuasive sanctions against such acts. The Committee notes that, in addition to reiterating that trade union activities are already generally protected by the Constitution of the Republic of Slovenia and that adequate judicial protection and sanctions against anti-union interference are set out in the Employment Relationship Act in sections 217 and 218, the Government indicates that violation of trade union rights is defined as a criminal offence in paragraph two of article 200 of the Criminal Code which stipulates that whoever breaches regulations and general acts by preventing employees or hindering them from exercising free association and carrying out union activities, or obstructs the implementation of union rights, or takes over a trade union shall be punished by a fine or sentenced to imprisonment for not more than one year. ***The Committee takes due note of the content of article 200 of the Criminal Code and requests the Government to indicate which circumstances fall within the definition of “takes over a trade union” and to provide information of its application in practice.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Solomon Islands

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2012)

Previous comment

Articles 1 and 2 of the Convention. Legislative matters. In its previous comments, the Committee drew the Government's attention to a series of legal provisions which were not in conformity with the Convention and needed to be amended in order to:

- make the Trade Unions Act (TUA) applicable to all workers irrespective of the nature of their contract, including independent and outsourced workers and workers without an employment contract, as well as to prison staff and fire services (section 2 et seq. of the TUA);
- ensure that the fine imposable upon an employer who discriminates against a worker at the stage of recruitment for reasons of union membership or activities (section 60(3) of the TUA) is sufficiently dissuasive;
- adopt provisions which: (i) provide adequate protection to workers, in particular to trade union officers and representatives, against anti-union discrimination in the course of employment, such as transfer, relocation and withdrawal of benefits; (ii) explicitly prohibit dismissal for reasons of trade union membership or activities; and (iii) set up rapid and impartial procedures as well as sufficiently effective and dissuasive sanctions against such acts; and
- adopt provisions providing for full and adequate protection of workers' and employers' organizations against any acts of interference against each other, setting up rapid and impartial procedures as well as sufficiently effective and dissuasive sanctions against such acts.

The Committee notes with ***regret*** the Government's lack of reply with respect to the issues highlighted in its previous comments. ***In the absence of further substantial information, the Committee firmly expects that the Government will take the necessary legislative measures, in consultation with the social partners, to bring the provisions of the TUA into full conformity with the Convention. The Committee requests the Government to provide information on any measures taken in this regard.***

In its previous comments, the Committee also requested the Government to provide further details on:

- the role of labour inspection and other bodies empowered to examine complaints against anti-union discrimination and against allegations of interference of employers in workers' organizations, especially concerning their accessibility, rapidity and independence;
- the rule granting reversal of burden of proof for cases of anti-union discrimination other than dismissal;
- the sanctions provided for in case of interference by employers in workers' organizations and for anti-union discrimination unrelated to recruitment;
- legislative provisions and all other measures whose objective is to regulate and promote collective voluntary negotiation among the social partners; the possible powers of public authorities in this regard, as well as the number of collective agreements concluded, specifying the sectors and the number of workers covered; and
- legislative provisions and all other measures regulating the procedure for recognition of trade unions in collective bargaining, in particular the criteria for the designation of bargaining agents, threshold of representativity required, type and duration of recognition procedure, rights of minority unions, the possibility of forming groups of trade unions for bargaining purposes, and collective bargaining rights of employers' organizations, including the role, if any, of the Chamber of Commerce.

Regretting the absence of any new information in this regard, the Committee urges the Government to provide information on these matters.

Article 4. Collective bargaining in practice. The Committee notes the Government's indication that the Solomon Islands Council of Trade Unions has signed almost 60 collective agreements with 60 employers across the country and that those collective agreements only cover members, which must consist of 50 per cent or more of the total workers. While taking due note of this information, the Committee recalls that a threshold of 50 per cent or more of the total workers to be able to bargain collectively, can be excessive. ***The Committee refers to its request above with regard to the procedure for recognition of trade unions and requests the Government to take into consideration that, when the threshold is not reached, the existing unions should be given the possibility, jointly or separately, to bargain collectively, at least on behalf of their own members.***

The Committee further requests the Government to: (i) provide information on the measures taken to promote collective bargaining across the different sectors of the economy; and (ii) continue providing information on the number of collective agreements concluded and in force, the sectors concerned, and the number of workers covered by these agreements.

Somalia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2014)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee takes note of the Government's first report on the application of the Convention. It notes with ***interest*** the Government's indication that a draft Labour Code (the content of which is examined in the direct request accompanying this observation), was developed in collaboration with the ILO to revise the 1972 Labour Code, and that all tripartite partners were involved in the process. It further notes that this draft Labour Code and a draft Civil Service Law are currently pending approval by the Parliament. ***The Committee requests the Government to inform on the adoption process of the draft Labour Code and the draft Civil Service Law and to transmit copies of the laws once adopted.***

The Committee also notes the observations of the Federation of Somali Trade Unions (FESTU), received on 1 October 2020, alleging violations of the right to organize, including the right to strike, at an

airport management company, as well as pressures and threats by the police against trade union officials. **The Committee requests the Government to provide its comments in this respect.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

South Africa

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1996)

Previous comment

The Committee takes note of the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022, referring to the matters addressed below.

Trade union rights and civil liberties. Allegations of violent repression of strike actions and arrests of striking workers. The Committee had previously requested the Government to reply to the 2015 ITUC observations, pertaining to the arrest of 100 community health striking workers in July 2014 and the killing, in January 2014, of a union steward of the Association of Mineworkers and Construction Union (AMCU) and to communicate the results of the investigation regarding the death of that union steward. The Committee notes the Government's indication that the observation has been communicated to the Independent Police Investigative Directorate (IPID), which has yet to respond to the denunciations. The Government indicates that it will submit the IPID report as soon as it becomes available. **Considering the years that have passed since the submission of the ITUC observations, the Committee firmly urges the Government to take all necessary measures with a view to expediting the process of investigation and requests the Government to inform it of the findings.**

The Committee notes that in its most recent observations, the ITUC alleges that strike actions in South Africa are often met with intimidation and anti-union dismissals with violence and arrests and refers in this respect to the assassination of a campaigner and organizer for the National Union of Metalworkers of South Africa (NUMSA), in August 2021 whilst NUMSA officials were engaging in conciliation at the Commission for Conciliation, Mediation and Arbitration (CCMA), and the killing of a member of the NUMSA in October 2021, during a protest march for a salary increase in the metal and engineering sector. According to the ITUC, the NUMSA alleges that some of its members have been attacked by the police and private security companies, and in some instances, have even been shot at, causing injuries. The ITUC further alleges that members of the South African Commercial Catering and Allied Workers Union (SACCAWU) were facing increased intimidation by their employer during protests, in particular through the use of legal notices, unpaid leaves to self-isolate for allegedly violating COVID-19 safety rules, and text messages telling workers they had been replaced. The Committee also takes note of the alleged violence, such as threats, the use of rubber bullets and petrol bomb attacks against striking dairy workers, members of the General Industries Workers Union of South Africa (GIWUSA). The Committee also notes the alleged suspension of four members of the National Emancipated and Allied Workers Union of South Africa (NEAWUSA) following a month-long strike. **The Committee requests the Government to provide detailed comments on these serious allegations of violation of trade union rights and civil liberties.**

The Committee notes with **regret** that the Government did not reply to its previous request to send copies of the Accord on Collective Bargaining and Industrial Action, the Code of Good Practice on Collective Bargaining, Industrial Action and Picketing, and Picketing Regulations, and the Labour Relations Act, as amended, and to provide detailed information on the implementation of the recommendations of the Judicial Commission of Inquiry into the events at Marikana Mine in Rustenburg.

The Committee reiterates its previous request and expects the Government to transmit full particulars with its next report.

Articles 2 and 3 of the Convention. Rights of vulnerable workers to be effectively represented by their organizations. The Committee **regrets** that the Government did not provide a copy of the research report on the impact of the amendments of the Labour Relations Act on trade unionization of temporary employees, and also did not provide information on any developments regarding the Government's interventions to address difficulties in the exercise of the right to organize by farmworkers, including on the ITUC's 2015 observations alleging difficulties for farmworkers to engage in legally protected industrial action. ***The Committee reiterates its previous request and expects the Government to transmit full particulars in this respect with its next report.***

[The Government is asked to reply in full to the present comments in 2023].

Spain

Workers' Representatives Convention, 1971 (No. 135) (ratification: 1972)

The Committee notes the observations of the General Union of Workers (UGT), the Spanish Confederation of Employers' Organizations (CEOE) and the Spanish Confederation of Small and Medium-Sized Enterprises (CEPYME), provided by the Government and the Government's comments in this respect.

Article 2 of the Convention. Appropriate facilities. The Committee notes the adoption of Act No. 12/2021 amending the consolidated text of the Workers' Charter to guarantee the labour rights of persons engaged in delivery work through a digital platform (28 September 2021). The Committee notes with **interest** that the amendment to section 64 of the Charter guarantees the right to information and consultation of workers' representatives, recognizing the right of the enterprise committee to be informed of the rules and specifications on which the algorithms or artificial intelligence systems are based that affect decision-making that could have an impact on working conditions, and accessing and retaining employment, including profiling (new paragraph 4(d)). Inasmuch as it may facilitate the collective representation of workers in the sector, the Committee also welcomes the presumption of the existence of an employment relationship for workers engaged in the delivery or distribution of any kind of product or merchandise, when the enterprise exercises its powers of organization, administration and supervision by means of the algorithmic management of the service or working conditions through a digital platform (section 8(1)).

The Committee also notes the Government's indication regarding the adoption of Act No. 10/2021 on remote work (9 July 2021), which refers to regular work (performed over a period of three months for a minimum of 30 per cent of the working day or a proportional percentage depending on the length of the contract), section 19 of which seeks to guarantee the collective rights of persons who engage in remote work with a view to ensuring collective bargaining. The Committee notes with **interest** that the Act establishes facilities for workers' representatives, such as access to the communications and email addresses used in the enterprise, a virtual bulletin board and a clear line of communication between workers and their representatives. It also seeks to guarantee that workers can effectively participate in the activities organized or held by their representatives, including by exercising their voting rights in the elections of their legal representatives. ***The Committee requests the Government to provide information on the application in practice of these two Acts.***

Application of the Convention in practice. Court decisions. The Committee notes the information provided by the Government with respect to the various court decisions handed down in relation to the application of the Convention. The Committee notes in particular those that confirm the right to information of trade union delegates and workers' representatives.

Sri Lanka

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1995)

Previous comment

The Committee had previously requested the Government to provide its comments on the observations of the International Trade Union Confederation (ITUC) according to which, several peaceful strikes were violently suppressed by the police and the army in 2016 and 2017, leaving many workers injured, and alleging incidences of intimidation and threats of physical attacks, in particular against workers in Free Trade Zones (FTZs). It had further requested the Government to take measures to ensure that the use of excessive violence in trying to control demonstrations was prohibited, that arrests were made only where serious violence or other criminal acts have been committed, and that the police were called in a strike situation only where there was a genuine and imminent threat to public order. While noting the information describing in detail the legislative framework, which, according to the Government, provides for sufficient protection of fundamental rights, the Committee **regrets** the lack of comments on the 2016 and 2017 events described by the ITUC and the measures taken to prevent repetition of such acts by the police. **The Committee therefore urges the Government to provide comments on the ITUC allegations as well as information on concrete steps taken in consultation with the social partners to ensure that the use of excessive violence in demonstrations is prohibited; that arrests are made only where serious violence or other criminal acts have been committed; and that the police are called in a strike situation only upon a genuine and imminent threat to public order.**

The Committee had previously requested the Government to provide information on the progress made in reforming the National Labour Advisory Council (NLAC), in particular with regard to its handling of the issue of application of the Convention to workers in the FTZs. While noting the information provided by the Government on the reform of the NLAC, which would appear to be limited to adding representatives of trade unions, employers' organizations and Government agencies, the Committee **regrets** that no information has been provided regarding the consideration by the NLAC of the issue of application of the Convention to workers in the FTZs. **The Committee therefore urges the Government to indicate all measures taken to extend the protection of the Convention to workers in FTZs.**

Article 2 of the Convention. Minimum age for trade union membership. In its previous observation, noting that the minimum age for admission to employment was 14 years and that the minimum age for trade union membership was 16 years (section 31 of the Trade Unions Ordinance), the Committee expressed the hope that the relevant provision would be amended to ensure that the minimum age for employment is the same as that for trade union membership. The Committee welcomes the Government's indication that the minimum age for working was increased from 14 to 16 years in January 2021 and that several legislative acts have been amended to reflect this new situation. The Government indicates that discussions on the amendment of section 31 of the Trade Unions Ordinance have commenced between the Department of Labour and the social partners. **The Committee requests the Government to provide information on developments in this respect.**

Articles 2 and 5. Right of public servants' organizations to establish and join federations and confederations. The Committee had previously requested the Government to amend section 21 of the Trade Unions Ordinance so as to ensure that trade unions in the public sector may join federations of their own choosing, and that first-level organizations of public employees may cover more than one ministry or department in the public service. The Committee notes with **regret** that the Government reaffirms its previous position that there is no restriction on trade union membership for public sector workers other than staff officers. The Government explains that the current framework is conditioned by the need to strike a balance between aspirations of the trade union movement and politically

motivated actions. The Committee once again emphasizes the need to ensure that organizations of government staff officers may join federations and confederations of their own choosing, including those which also group together organizations of workers from the private sector, and that first-level organizations of public employees may cover more than one ministry or department in the public service. **The Committee therefore urges the Government to take the necessary measures to amend section 21 of the Trade Unions Ordinance without further delay and to inform it of all developments in this regard.**

Article 3. Dispute settlement machinery in the public sector. The Committee had previously expressed the hope that an appropriate mechanism for dispute prevention and settlement in the public sector would be developed soon. The Committee **regrets** that the Government makes no reference to the work on the mechanism for dispute prevention and settlement in the public sector that it previously carried out with the support of the Ministry of Public Administration and technical assistance from the ILO, and simply indicates that many venues exist for public sector workers to settle their disputes and seek remedies. **The Committee therefore urges the Government to provide detailed information on the mechanisms for dispute prevention and settlement in the public sector.**

Compulsory Arbitration. The Committee had previously requested the Government to take measures to amend section 4 (1) and (2) of the Industrial Disputes Act to ensure that recourse to compulsory arbitration to bring an end to a collective labour dispute and a strike was admissible only when the strike in question may be restricted, or even prohibited. The Committee notes the Government's indication that the right to strike has been denied only upon ensuring fair treatment by way of compulsory arbitration. The Committee once again recalls that recourse to compulsory arbitration to bring an end to a collective labour dispute or a strike is permissible only: (i) if the dispute involves public servants exercising authority in the name of the State; (ii) in conflicts in essential services in the strict sense of the term; or (iii) in situations of acute national or local crisis. **The Committee therefore urges the Government to take the necessary measures to amend section 4(1) and (2) of the Industrial Disputes Act in order to guarantee respect for this principle and to inform it of progress in this regard.**

Article 4. Dissolution of Organizations by the Administrative Authority. The Committee had previously requested the Government to ensure that no withdrawal or cancellation of trade union membership by the administrative authority may take effect until a final judicial decision is handed down. The Committee takes due note of the Government's indication that no decision to withdraw or cancel the registration of trade unions could be enforced until a final decision by the judiciary as it would amount to contempt of court by law.

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1972)

Previous comment

The Committee notes with **regret** the absence of reply from the Government regarding the observations of the International Trade Union Confederation (ITUC) received on 1 September 2019, alleging anti-union dismissals in a company during the pendency of arbitration proceedings and denouncing that anti-union discrimination and union-busting remain a major problem in the country. **The Committee is therefore bound to reiterate its request and urges the Government to provide its comments to the ITUC observations.**

Article 1. Adequate protection against acts of anti-union discrimination. Effective and expeditious procedures. In its previous comments, Committee urged the Government to take the necessary measures to amend the Industrial Disputes Act to grant trade unions the right to bring anti-union

discrimination cases directly before the courts. The Committee takes note of the Government's indication that the courts examined a total of 9 discrimination cases (unfair labour practices) in the last five years that are still pending before them. The Government adds that it adopted an administrative measure, intended to protect workers, to transfer all complaints related to anti-union discrimination to the "Special Investigation Division" of the Department of Labour. The Committee notes with **concern** that, despite the time that has elapsed, none of the referred cases submitted to the court in the last five years have yet resulted in a decision. The Committee also observes that the Government remains silent on the request to allow trade unions direct recourse to courts in anti-discrimination cases. **The Committee therefore urges the Government once again to amend the Industrial Disputes Act to grant Trade Unions the right to bring anti-union discrimination cases directly before courts and to ensure that these cases are subject to swift and responsive judicial proceedings. The Committee requests the Government to provide information in this respect.**

Article 4. Promotion of collective bargaining. Export processing zones (EPZs). The Committee previously requested the Government to provide information on the measures taken to ensure that employees' councils do not undermine trade unions. The Committee also requested the Government to continue to promote collective bargaining in EPZs and provide statistics in this regard, particularly on the clothing and textile sectors. The Committee notes the Government's indication that the Industrial Disputes Act allows trade unions, not employees' councils, to collectively bargain and establish collective agreements with the employer. The Government further states that section 10.3.2 of the Sri Lanka Board of Investment (BOI) Manual: (i) grants the BOI the authority to cancel employees' councils that undermine trade unions; and (ii) provides that in organizations with both functioning trade unions and employees' councils, only the former has the right to collective bargaining. The Government adds that: (i) five worker facilitation centres were established and are operational in Katunayake, Biyagama, Koggala and Wathupitiwala Export Processing Zones and in Kandy Industrial Park for trade union officials and members to meet privately and freely; (ii) BOI enterprises operating both within and outside EPZs must observe the principles in the Labour Standards and Employment Relations Manual which enumerates the right to collective bargaining and other facilities offered to trade union representatives of BOI enterprises. The Committee also takes note of the statistics provided by the Government with respect to EPZs, indicating that: (i) there are 14 EPZs in total as of 30 April, 2022 with 275 enterprises employing 147,683 workers; (ii) there are 107 operational employees' councils and 40 trade unions (of which 19 enjoy check-off facilities); (iii) as of 30 April 2022, 5 collective agreements were concluded by trade unions covering 2098 workers (1.4 per cent of the EPZs workers) from 5 enterprises (1.2 per cent of the enterprises); and (iv) the number of employees in the clothing and textile sectors total 88,480 as of 31 March 2022. The Committee takes due note of these elements and, in particular, of the BOI's authority to cancel employees' councils that undermine trade unions and of the creation of five workers' facilitation centres. However, the Committee observes once again that the number of employees' councils in operation in EPZs are significantly higher than the number of trade unions and that there is no substantial increase in the number of collective agreements concluded. With regards to the clothing and textile sectors, the Committee observes that the Government does not specify the number of collective agreements concluded by trade unions; and the workers covered by them. **Based on the above, the Committee requests the Government to intensify its efforts to promote collective bargaining in EPZs, including by establishing worker facilitation centres in all EPZs. The Committee further requests the Government to provide information on: (i) instances that section 10.3.2 of the BOI Manual was successfully invoked, with relief consequently granted to the unions concerned; (ii) the number of collective agreements concluded in entities having both employees' councils and trade unions; and (iii) the number of collective agreements concluded in the EPZs, with detailed sector specific information, particularly on the clothing and textile sector, including the number of workers covered by them in each sector in comparison with the total number of workers in the respective sectors.**

Representativeness requirements for collective bargaining. For many years, the Committee has requested the Government to take the necessary measures to review section 32(A) (g) of the Industrial Disputes Act so as to ensure that the membership requirement imposed on a union to bargain collectively does not undermine the effective access to this right. The Government reiterates in this regard that there is no bar on trade unions that fail to individually meet the requirement for representativeness prescribed by section 32(A)(g) of the Industrial Disputes Act, which sets the threshold at 40 per cent, to involve in the collective bargaining process by federating with other minority trade unions. While taking due note of this element, the Committee recalls that the threshold for representativeness should be designated to facilitate and promote the development of free and voluntary collective bargaining. In this respect, it considers that the very low number and coverage of collective agreements previously noted in its comments on EPZs could appear to be related to the restrictive representativeness requirement, prescribed by the Industrial Disputes Act, to engage in collective bargaining. ***The Committee therefore emphasises the need to ensure that the absence of unions that meet the requirements for representativeness to be designated as a bargaining agent, does not impede the right of the existing unions to negotiate, either jointly or at least on behalf of their own members. The Committee requests once again the Government to take the necessary action to review section 32(A)(g) of the Industrial Disputes Act accordingly. The Committee additionally requests information regarding the total number of collective agreements concluded in the country as a whole, the sectors and the number of workers concerned.***

Article 6. Right to collective bargaining for public service workers not engaged in the administration of the State. Having observed that section 49 of the Industrial Disputes Act does not apply to State and Government employees and that existing Government structures did not require a collective bargaining system for public sector unions, the Committee previously requested the Government to take measures to guarantee public servants not engaged in the administration of the state the right to collective bargaining. The Committee notes the Government's indication that public servants not involved in the administration of the state are not barred from entering into collective agreements and that there are existing collective agreements in public enterprises which cover such public servants. While taking note of these elements the Committee recalls that the public employees not engaged in the administration of the State and who are therefore covered by the Convention not only includes employees in public enterprises but also other categories such as, for instance, municipal employees and those in decentralized entities, public sector teachers, public hospital workers etc. ***The Committee once again requests the Government to take the necessary measures, including of a legislative nature, to recognize for all public servants not engaged in the administration of the state the right to collective bargaining, and to provide information on all progress made in this respect. The Committee also requests the Government to provide information on the number of collective agreements covering public enterprises.***

Request for technical assistance. The Committee welcomes the request for technical assistance by the Government to the Office in relation to following up on the observations and recommendations formulated by the ILO supervisory bodies. ***While being aware of the recent difficulties faced by the country, the Committee hopes that the technical cooperation will help address all pending comments and contribute to fostering a sound industrial relations system that will in turn contribute to address the mentioned challenges in a peaceful manner.***

Sudan

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1957)

Previous comment

The Committee welcomes the ratification by Sudan of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) on 17 March 2021. The Committee notes at the same time with **concern** the public announcement made on 28 November 2022 by the Head of the Transitional Sovereignty Council concerning: (i) the suspension of the activities of all workers' and employers' organizations; and (ii) the decision to establish a committee headed by the general registrar of work organizations aimed at forming new steering committees for trade unions and employers organizations as well, to prepare for elections and general assemblies. **The Committee urges the Government to refrain from any interference with regard to the functioning of the workers' and employers' organizations and to guarantee the necessary civil liberties so that they can freely exercise their activities, including through free and voluntary collective bargaining. The Committee requests the Government to provide full information on the measures taken to ensure full respect for the right to organize and collective bargaining.**

Article 4 of the Convention. Compulsory arbitration. In its previous comments, the Committee, noting that a draft Labour Code was in the final stages of revision, requested the Government to ensure that compulsory arbitration, which is currently allowed by section 112 of the Labour Code of 1997, would only be imposed in relation to public servants engaged in the administration of the State (*Article 6 of the Convention*), essential services in the strict sense of the term and acute national crises. The Committee notes the Government's indication that the Labour Code of 1997 was revised and submitted to the Council of Ministers in 2021, and that it is currently being assessed by a consultative committee on labour standards which includes employers and workers. **Taking due note of these developments, the Committee requests the Government to take the necessary measures, in consultation with the social partners, to ensure that the revised Labour Code is adopted shortly and only allows the imposition of compulsory arbitration in the above-mentioned cases. The Committee requests the Government to provide information on any progress achieved in this regard.**

Collective bargaining in practice. The Committee had previously requested the Government to provide statistical information on collective bargaining in practice. It notes with **regret** that the Government merely states that it does not have any data. **The Committee once again requests the Government to provide information, including statistics, on the number of collective agreements concluded in the country since 2017, as well as the sectors concerned and the number of workers covered by these agreements.**

Trade union rights in export processing zones (EPZs). In its previous comments, the Committee had requested the Government to provide information on the application of trade union rights in EPZs. **Noting that the Government does not transmit the information requested, the Committee reiterates its request that it provide specific information on the application of trade union rights in EPZs, including the number of unions and collective agreements, as well as copies of the pertinent labour inspection reports.**

Trade Unions Act. The Committee had previously observed that various provisions of the Trade Unions Act of 2010 are not consistent with the principles of freedom of association (for example, the imposition of trade union monopoly at federation level; the ban on joining more than one trade union organization; the need for approval from the national federation in order for federations or unions to join a local, regional or international federation; and interference in the finances of organizations) and invited the Government to bring the Act into line with such principles. **Regretting that the Government**

does not provide any information in this regard and highlighting the recent ratification of Convention No. 87, the Committee urges the Government to take the necessary measures, in full consultation with the social partners, to bring the Trade Unions Act of 2010 into conformity with the principles of freedom of association so as to promote the full development and utilization of collective bargaining machinery, in accordance with Article 4 of the Convention.

Reiterating its concern about the 28 November 2022 public announcement concerning the freezing of the activities of all workers and employers' organizations, the Committee further urges the Government to ensure that, pending the revision of the Trade Union Act, all the conditions required for the application of the Convention are fully respected in practice.

[The Government is asked to reply in full to the present comments in 2023.]

Sweden

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1949)

Previous comment

Legislative developments. Posting of workers. In its previous comment, the Committee had requested the Government to provide information on the application in practice of the Posting of Workers Act, 2017. The Committee notes detailed information provided by the Government and refers in this respect to its comments on the application of Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

Other developments. In its previous comment, the Committee requested the Government to provide details on the proposals made by the inquiry appointed to review the exercise of the right to industrial action as well as on the bill drafted by the social partners to address the issues in relation to the exercise of the right to strike. The Committee takes due note of the Government's indication that following the inquiry, the Ministry of Employment decided to proceed with the proposal submitted by the social partners and submitted a bill entitled "Extended obligation to keep the peace in workplaces where there is a collective agreement and in the event of legal disputes" to the Parliament. The Bill was adopted and the amendments to the Act on Co-Determination in the Workplace, which set forth conditions under which the right to industrial action against an employer bound by a collective agreement could be exercised, entered into force on 1 August 2019. ***The Committee notes the adoption and entering into force of this new law and requests the Government to provide information on developments under the 2019 amendments, including any situations in which the right to industrial action was exercised and situations in which it was not.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1950)

Previous comment

Article 4 of the Convention. Promotion of collective bargaining. Legislative developments. Posting of workers. In its previous comment, the Committee requested the Government to provide information on the application in practice of the Posting of Workers Act (1999:678), in particular through statistics on collective agreements concluded with foreign employers and on foreign employers that became bound by collective agreements through membership of an employers' organization.

The Committee notes the Government's indication that there are neither public statistics on the number of collective agreements concluded by foreign employers for posted workers nor statistics on the number of foreign employers that became bound by collective agreements through membership of

an employers' organization but that, nevertheless, several recent reports show that the recent legislative developments concerning the posted workers have the intended effect in practice, notably in the construction sector. The Committee notes that the Government indicates in particular that: (i) according to a report from the Swedish Institute for European Policy Studies focusing on posting of workers in the construction sector, both Swedish trade unions and employers' organizations stated that posting employers voluntarily sign customary collective agreements, as opposed to posting collective agreements with limited legal effects, and that trade union representatives mentioned they have no difficulties identifying posting employers and to negotiate collective agreements for posted workers; and (ii) the Byggmärnadskommissionen, a commission conducted and funded by parties in the construction sector, analysed the existing legislative framework regarding posting workers and, after having given some consideration to the possibility to enforce a mechanism for the extension of collective agreements in the construction sector, the commission assessed that no amendments were needed to the existing regulatory framework for posted workers.

The Committee further notes that the Posting of Workers Act was amended three times during the reporting period. The Committee notes in particular that section 16, introduced in 2020, allows for trade unions to take industrial action to negotiate collective agreements for posted temporary agency workers. ***Welcoming the application of the Posting of Workers Act to posted temporary agency workers, the Committee requests the Government to continue providing information on the application in practice of this Act in the different sectors of the labour market and to provide any statistics in this regard.***

Switzerland

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1999)

Previous comment

The Committee notes the observations of the Swiss Federation of Trade Unions (USS), received on 31 August 2022, which relate to matters examined in the context of the present comment.

Articles 1 and 3 of the Convention. Adequate protection against anti-union dismissals. The Committee recalls that it has been asking the Government for many years to take steps to strengthen the protection provided at national level against anti-union dismissals. The Committee notes the Government's indications that: (i) in June 2019, Switzerland launched an external, independent mediation process on the question of protection of trade unionists in the event of unfair dismissal, in order to find a compromise solution acceptable to everyone; (ii) the mediator, chosen by the social partners, is an experienced lawyer who is leading the mediation in a completely independent manner; (iii) the Government is providing technical and scientific support to the mediator but is not a party in the mediation process; (iv) the mediation is being financed by the State Secretariat for the Economy (SECO); and (v) the mediation has been delayed because of the situation resulting from the COVID-19 pandemic but is still in progress.

In its previous observation, the Committee noted that the respective positions of the social partners had not changed: on the one hand, the employers' representatives do not wish to adopt more severe penalties for unfair dismissals; on the other hand, the workers' representatives are calling for the solution of reinstatement to be retained or at least for the maximum amount of compensation for anti-union dismissal, established by law as the equivalent of six months' wages, to be increased to 12 months' wages. The Committee notes, according to the information provided by the USS, that a study undertaken by the University of St. Gallen (HSG) shows that compensation in the majority of cases corresponds to three to four months' wages, even for flagrant violations of freedom of association. According to the USS, that amounts to an invitation for employers to engage in unfair dismissals since

they have little or nothing to fear in financial terms. The USS adds that a statutory minimum amount should be fixed for compensation, with no ceiling imposed on the latter, so that the level of compensation can be determined by the judge according to the economic power of the employer concerned. The USS also recalls that reintegration remains a crucial issue.

The Committee notes with **regret** that there has been no significant change in this matter, while recognizing the Government's efforts to continue to promote social dialogue in order to reach a solution. In these circumstances, the Committee is bound to recall that: (i) even though the Convention does not require States to incorporate provisions on reinstatement into their legislation, reinstatement constitutes the most effective remedy against acts of anti-union discrimination; and (ii) when, on the other hand, a country opts for a system of compensation for anti-union dismissal, the compensation should fulfil certain conditions and in particular: (i) be higher than that prescribed for other kinds of dismissal, with a view to the effective dissuasion of this type of dismissal; and (ii) be adapted in accordance with the size of the enterprise concerned (2012 [General Survey on the fundamental Conventions](#), paragraphs 182–185). Noting that the Government's efforts to promote an agreement between the social partners on this question have now extended over many years, the Committee emphasizes that if it is not possible to reach a consensus, the Government should take the decisions that are necessary to ensure observance of the international labour conventions which it has ratified. ***While hoping that the mediation process under way will enable an agreement to be reached, the Committee requests the Government to take the necessary steps to ensure full conformity with the Convention in law and practice as regards protection against anti-union dismissal. The Committee requests the Government to provide information on progress made in this regard.***

Article 4. Promotion of collective bargaining. The Committee notes the statistics available from the Federal Statistics Office on the collective agreements signed and the number of employees covered (as of 1 July 2021, a total of 44 legally binding national collective agreements covering 1,050,657 workers, as well as 40 extended cantonal collective agreements covering 50,331 workers). ***The Committee requests the Government to continue providing up-to-date statistical information on the number of collective agreements by sector and the number of workers covered.***

Syrian Arab Republic

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes that in its reply to the 2012 observations of the International Trade Union Confederation (ITUC) alleging the use of police and paramilitary force in dealing with protests, deaths, arrests and imprisonment of political and human rights activists, the Government indicates that: (i) the ILO has no constitutional mandate to interfere in countries' internal political affairs, rather its mandate is to examine allegations of economic nature or dealing with working conditions; (ii) the matter raised by the ITUC is being discussed by the Human Rights Council since 2011; (iii) the Government categorically refutes the use of violence against its citizens; the protests, killings and acts of vandalism were carried out by armed terrorist groups in order to destabilize the country; and (iv) the right to strike is provided for in article 44 of the Constitution (2012), which specifies that citizens have the right to assemble, to peacefully demonstrate and to strike. The Committee recalls that freedom of association is a principle with implications that go well beyond the mere framework of labour law. It further recalls that the ILO supervisory bodies have unceasingly stressed the interdependence between civil liberties and trade union rights, emphasizing that a truly free and independent trade union movement can only develop in a climate free from violence, pressure and threats of any kind against the leaders and members of such organizations (see the 2012 General Survey on the fundamental Conventions, paragraph 59). ***The Committee expects the Government to ensure respect for this principle.***

Article 2 of the Convention. Scope of application. The Committee had previously requested the Government to indicate whether independent workers, civil servants, agricultural workers, domestic workers and similar categories, casual workers and part-time workers whose hours of work do not exceed two hours per day enjoy the rights provided for in the Convention. The Committee notes the Government's indication that by virtue of section 5(b) of the Labour Act No. 17 of 2010, domestic workers and similar categories, workers in charity associations and organizations, casual workers and part-time workers (workers whose hours of work do not exceed two hours per day) shall be subjected to the provisions of their employment contracts, which may not, under any circumstances, prescribe fewer entitlements than those prescribed by the Labour Act, including the provisions of the Law on Trade Union Organizations. The Committee considers, however, that the right to organize of the abovementioned categories of workers excluded from the scope of application of the Labour Act should be explicitly protected in law. Therefore, the Committee requests the Government to take measures, in consultation with social partners, to adopt the necessary legislative provisions so as to ensure that these categories of workers enjoy the rights provided for in the Convention. The Committee further notes that agricultural workers and agriculture work relationships, including collective bargaining, are governed by Agricultural Relations Law No. 56 of 2004, that domestic workers are governed by Law No. 201 of 2010, and that civil servants are governed by Basic Law on State Employees No. 50 of 2004. **The Committee requests the Government to indicate specific legislative provisions that regulate particular aspects of freedom of association rights of civil servants, agricultural workers, and domestic as well as independent workers, and to provide a copy thereof.**

Trade union monopoly. For several years, the Committee has been referring to the need for the Government to amend or repeal the legislative provisions which establish a trade union monopoly (sections 3, 4, 5 and 7 of Legislative Decree No. 84; sections 4, 6, 8, 13, 14 and 15 of Legislative Decree No. 3, amending Legislative Decree No. 84; section 2 of Legislative Decree No. 250 of 1969; and sections 26–31 of Act No. 21 of 1974). The Committee takes note of the Government's indication that workers have the right to establish independent trade unions if the union is affiliated to the General Federation of Trade Unions in Syria (GFTU). According to the Government, the application of trade union pluralism in several countries weakened trade unions and diminished workers' rights. Observing that all workers' organizations must belong to the GFTU and that any attempt to form a trade union must be subject to the consent of this Federation, the Committee considers that although it is generally to the advantage of workers and employers to avoid a proliferation of competing organizations, the right of workers to be able to establish organizations of their own choosing, as set out in Article 2 of the Convention, implies that trade union diversity must remain possible in all cases. The Committee considers that it is important for workers to be able to change trade unions or to establish a new union for reasons of independence, effectiveness or ideological choice. Consequently, trade union unity imposed directly or indirectly by law is contrary to the Convention (General Survey 2012, op. cit., paragraph 92). **The Committee reiterates its previous request and expects that all necessary measures will be taken by the Government, in full consultations with the social partners, so as to bring the national legislation into conformity with Article 2 of the Convention. It requests the Government to inform it of any progress made in this regard.**

Article 3. Financial administration of organizations. The Committee recalls that its previous comments related to the need to amend section 18(a) of Legislative Decree No. 84, as amended by section 4(5) of Legislative Decree No. 30 of 1982, so as to lift the power of the Minister to set the conditions and procedures for the investment of trade union funds in financial services and industrial sectors. The Committee notes the Government's indication that, in accordance with the rights afforded to them by the Constitution, the GFTU and other unions are financially independent and have the right to conclude agreements and labour contracts in accordance with section 17 of the Law on Trade Union Organizations and the right to dispose of their funds and income in accordance with their internal regulations and decisions. **Noting with regret the absence of any new development in this regard, the Committee expects the Government to undertake, as soon as possible, the revision of section 18(a) of Legislative Decree No. 84, as amended by section 4(5) of Legislative Decree No. 30 of 1982, in full consultations with the social partners. It also requests the Government to provide information on the measures taken or envisaged in this regard.**

Right of organizations to elect their representatives in full freedom. The Committee had previously requested the Government to provide specific information on the measures taken or contemplated to repeal or amend section 1(4) of Act No. 29 of 1986, amending Legislative Decree No. 84 which determines the composition of the GFTU Congress and its presiding officers. The Committee has stated on multiple

occasions that it should be up to trade union constitutions and rules to establish the composition and presiding officers of trade union congresses. **Noting with regret the absence of any new development in this regard, the Committee expects that the Government will take the necessary measures, as soon as possible, in order to amend or repeal the above-mentioned provision in consultation with the social partners so as to ensure that organizations are able to elect their representatives in full freedom. It requests the Government to provide information on the measures taken or envisaged in this respect.**

Right of organizations to formulate their programmes and organize their activities. In its previous comments, the Committee had requested that the Government take the necessary measures to amend legislative provisions that restrict the right to strike by imposing heavy sanctions including imprisonment (sections 330, 332, 333 and 334 of Legislative Decree No. 148 of 1949, issuing the Penal Code). The Committee had further observed that no reference was made to the possibility for workers to exercise their right to strike in the chapter on collective labour disputes of the Labour Act. The Committee notes the Government's indication that section 67 of the Labour Act provides protection against dismissals of unionized workers for taking part in trade-union activities. **Recalling that in the past, the Government had indicated that the GFTU was working to modify the Labour Act to ensure coherence with articles of the Constitution granting workers the right to strike, the Committee expects that the law will be amended so as to bring it into line with the Convention and requests the Government to provide information in this regard. While noting the Government's indication that the agricultural sector is now governed by Law No. 56 of 2004, the Committee also requests the Government to indicate whether workers of this sector enjoy the right to strike and identify the relevant legislative provisions.**

While acknowledging the complexity of the situation prevailing on the ground due to the presence of armed groups and armed conflict in the country, the Committee trusts that the Government will make all efforts to bring its law and practice into conformity with the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1957)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Scope of the Convention. The Committee had previously requested the Government to specify and provide details concerning the legislative provisions affording to the following categories of workers the rights enshrined in the Convention: independent workers, civil servants, domestic servants and similar categories, workers in charity associations and organizations, casual workers and part-time workers whose hours of work do not exceed two hours per day. The Committee notes the Government's indication that: (i) pursuant to section 5(b) of the Labour Act No. 17 of 2010, domestic workers and similar categories, workers in charity associations and organizations, casual workers and part-time workers shall be subjected to the provisions of their employment contracts, which may not, under any circumstances, prescribe fewer entitlements than those prescribed by the Labour Act, including the provisions of the Law on Trade Union Organizations; and (ii) civil servants are governed by the Basic Law on State Employees No. 50 of 2004. **Noting that section 5(b) of the Labour Act excludes several categories of workers from its scope of application and exclusively refers to the content of their individual contracts of employment, the Committee requests the Government to specify the legislative provision recognizing the right to collective bargaining. The Committee further requests the Government to indicate legislative provisions regulating the right of collective bargaining for civil servants not engaged in the administration of the State. It further requests the Government to indicate whether independent workers enjoy the rights afforded by the Convention and to specify the relevant legislative provisions.**

Articles 1 and 2 of the Convention. Adequate protection against acts of interference. In its previous comments, noting that the Labour Act of 2010 does not expressly prohibit acts of interference on the part of the employers' or workers' organizations in each other's affairs, the Committee had requested the Government to take measures with a view to adopting clear and precise provisions prohibiting acts of interference, accompanied by sufficiently dissuasive sanctions. While observing that the Government does not provide specific information in this regard, the Committee recalls that under the terms of *Article 2* of the

Convention, workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration. Acts of interference are deemed to include acts which are designed to promote the establishment of workers' organizations under the domination of an employer or an employers' organization, or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of employers and employers' organizations (see 2012 General Survey on the fundamental Conventions, paragraph 194). **The Committee therefore requests the Government to take the necessary measures to ensure that the legislation explicitly prohibits all of the acts covered by Article 2 of the Convention and that it provides for sufficiently dissuasive penalties in this respect.**

Article 4. Promotion of collective bargaining. The Committee had previously noted that section 187(c) of the Labour Act grants an excessive power to the Ministry to object and refuse to register a collective agreement on any grounds that it deems appropriate during a 30-day period after filing the collective agreement and therefore requested the Government to amend the provision in order to fully guarantee the principle of free and voluntary collective bargaining established in the Convention. Additionally, it pointed out that pursuant to section 214 of the Labour Act, if mediation fails, either party may file a request to initiate dispute settlement through arbitration and accordingly recalled that compulsory arbitration is only acceptable in relation to public servants engaged in the administration in the State, essential services in the strict sense of the term, and acute national crises. The Committee observes that the Government merely states that all laws and subsequent amendments on the Labour Act were adopted in full consultation with social partners, and reiterates that section 187(c) of the Labour Act aims to ensure that collective agreements are in conformity with the abovementioned Act. **The Committee once again requests the Government to take the necessary measures to ensure that sections 187(c) and 214 of the Labour Act are brought into conformity with the Convention.**

Arbitration bodies. The Committee previously requested the Government to take measures to amend section 215 of the Labour Act so as to ensure that the composition of the tribunal is balanced and has the confidence of the parties in the arbitration mechanism. **Noting with regret the absence of any new development in this regard, the Committee expects that the Government will undertake, as soon as possible, the amendment of the abovementioned provision.**

Application of the Convention in practice. In its previous comments, the Committee requested the Government to indicate the measures taken to promote and encourage the greater development and utilization of procedures of voluntary negotiations between employers or employers' organizations and workers' organizations. **While taking note that the Labour Act refers in its section 178 to collective bargaining and social dialogue, the Committee requests the Government to indicate, in practice, the measures taken or envisaged to promote and encourage the greater development and utilization of procedures of voluntary negotiations between employers or employers' organizations and workers' organizations to regulate the terms and conditions working through collective bargaining. It also requests the Government to provide information on the number of existing collective agreements, the sectors concerned and the numbers of workers covered by those.**

While acknowledging the complexity of the situation prevailing on the ground due to the presence of armed groups and armed conflict in the country, the Committee trusts that the Government will make all efforts to bring its law and practice into conformity with the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Togo

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

[Previous comment](#)

The Committee notes the adoption of Act No. 2120-012 of 18 June 2021 issuing the Labour Code. In this regard, the Committee notes the joint observations of the Synergy of Workers of Togo (STT) and

the National Union of Independent Workers of Togo (UNSI), received on 31 October 2022. **The Committee requests the Government to provide its comments in this respect.**

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish organizations. Trade union rights of minors. The Committee notes with **satisfaction** that the provisions of section 12 of the Labour Code of 2006 have been repealed, thereby removing any obstacle to the exercise of the trade union rights of minors who have access to the labour market.

Length of the registration procedure. However, the Committee notes that, with reference to section 13 of the new Labour Code, the authorities have 90 days to complete the registration of a union. **Recalling that a long registration procedure constitutes a serious obstacle to the establishment of organizations without previous authorization, contrary to Article 2 of the Convention, the Committee requests the Government to take the necessary measures, in consultation with the social partners, to amend section 13 of the Labour Code.**

Article 3. Right of organizations to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and to formulate their programmes. Limitations on access to trade union office. The Committee notes that, in accordance with section 14(1) of the new Labour Code, the members with responsibility for the administration and direction of an occupational union of workers shall be active in the enterprise or establishment covered or in the branch or sector concerned. In the view of the Committee, such provisions infringe the right of organizations to draw up their constitutions and to elect their representatives in full freedom by preventing qualified persons (such as full-time officers or pensioners) from being elected (2012 General Survey on the fundamental Conventions, paragraph 102). **The Committee requests the Government to make the legislative provisions more flexible, for example, by admitting as candidates persons who have previously been employed in the occupation concerned, or by exempting from the occupational requirement a reasonable proportion of the officers of the organization.** The Committee also notes that, in accordance with section 14(3) of the new Labour Code, “persons may not exercise responsibility for the administration or direction of a union who have received a conviction involving loss of civic rights or a conviction to a correctional penalty, with the exception of: (a) convictions for offences involving imprudence, unless they have also taken flight in that context; and (b) convictions for misdemeanours for which the penalty is not subject to proof of bad faith and which only involve liability to a fine, with the exception of misdemeanours qualified as offences by company laws.” The Committee wishes to recall that conviction for an act the nature of which is not such as to call into question the integrity of the person concerned and is not such as to prejudice the performance of trade union duties should not constitute grounds for disqualification from trade union office (2012 General Survey on the fundamental Conventions, paragraph 106). **The Committee therefore requests the Government to take the necessary measures, in consultation with the social partners, to amend section 14 of the Labour Code in line with the above comments.**

The Committee finally notes that, under the terms of section 15 of the new Labour Code, “the bodies responsible for the administration and direction of the union shall be renewed at least once every five years by the general assembly or the congress”. The Committee wishes to recall in this regard that such provisions which regulate in detail the alternation in the leadership of certain workers’ or employers’ organizations are incompatible with the Convention as they amount to interference by the public authorities in trade union affairs. **The Committee requests the Government to take the necessary measures, in consultation with the social partners, to repeal section 15 of the Labour Code, in line with the above comment.**

Exercise of the right to strike. In its previous comments, the Committee requested the Government to amend section 275 of the Labour Code, which required the parties, during the course of a strike, to continue negotiations under the authority of a person designated by the Minister of Labour. The Committee notes with **satisfaction** the Government’s indication that section 275 has been revised in

order to permit the parties to a dispute to choose the procedure for the settlement of the dispute. Section 329 of the new Labour Code has accordingly removed the requirement to continue negotiations under the authority of a person designated by the Minister of Labour. It provides that “during the course of the strike, the parties shall be under the obligation to continue negotiations – The parties may, by common agreement, have recourse to a mediator.”

However, the Committee observes that provisions such as those of section 322, under the terms of which the right to strike shall be exercised under conditions of duration and according to procedures that are compatible with the intrinsic requirements of the activity of the enterprise or establishment, and section 331(b), which prohibits any strike action from being pursued at the workplace, at its perimeter or within its immediate vicinity, all constitute limitations on the exercise of the right to strike. ***The Committee therefore requests the Government to take the necessary measures to amend sections 322 and 331 of the Labour Code.***

Essential services. The Committee notes the Government’s indication that the issue of the determination of essential services in the event of a strike has been regulated by section 327 of the new Labour Code, and particularly subsections 3 and 4: “Services shall be considered essential the partial or total interruption of which is likely to seriously prejudice the peace, security, public order or public finances, or endanger the life or health of the whole or part of the population. Services shall also be essential which relate to security, health, education, justice, prison administration, energy, water, State financial institutions, banks and financial establishments, air and maritime transport, and communications, with the exception of private radio and television stations.”

In this regard, while recalling that States may restrict or prohibit the right to strike of public servants exercising authority in the name of the State, for example in the field of justice or fiscal administration, as referred to by the legislator, the Committee observes that services such as those relating to security, education, banks and financial establishments, as well as air and maritime transport, cannot be considered essential within the strict sense of the term, that is their interruption would not endanger the life, personal safety or health of the whole or part of the population. The Committee nevertheless emphasizes that, in order to prevent irreversible or disproportionate harm to the professional interests of the parties to a dispute, the authorities could establish a system of a negotiated minimum service in the event of a strike in these services. It also recalls that such a service should genuinely and exclusively be a minimum service, that is one which is limited to the operations that are strictly necessary to meet the basic needs of the population or the minimum requirements of the services, while maintaining the effectiveness of the pressure brought to bear. Moreover, as this system restricts one of the essential means of pressure available to workers to defend their interests, their organizations should be able to participate in defining such a service, along with employers and the public authorities (2012 General Survey on the fundamental Conventions, paragraphs 131, and 137). ***The Committee therefore requests the Government to take the necessary measures to amend section 327 of the Labour Code so as to adjust the definition of essential services and provide, where appropriate, for a minimum negotiated service in the event of strikes in such services, in accordance with the principles recalled above.***

Application of the Convention in export processing zones. The Committee notes the general information provided by the Government concerning the application of the rights guaranteed by the Convention in export processing zones, as well as the data on the conciliation of individual and collective disputes.

The Committee recalls that the Government may avail itself of technical assistance of the Office in order to ensure the full conformity of the provisions of the new Labour Code with the Convention.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1983)

Previous comment

The Committee notes the adoption of Act No. 2120-012 of 18 June 2021 issuing the Labour Code. The Committee also notes the joint observations of the Synergy of Workers of Togo (STT) and the National Federation of Independent Unions of Togo (UNSIT), received on 31 October 2022, in which they allege, in particular, the absence of consultation of trade unions in the process of the formulation and adoption of the Labour Code. **The Committee requests the Government to provide its comments in this regard.**

Article 4 of the Convention. Compulsory arbitration. With reference to its previous comments on the need to amend section 260 of the Labour Code of 2006, the Committee notes with **satisfaction** that, under the terms of section 313 of the new Labour Code, only the parties concerned, and no longer the Minister of Labour, may decide in agreement to have recourse to a single arbitrator or an arbitration board in the event of the failure of conciliation.

Promotion of collective bargaining in practice. The Committee notes the information on the collective agreements in force, of which there are 14, with the most recent, which was concluded in December 2020, covering the pharmaceutical sector. **The Committee requests the Government to continue providing information on the number of collective agreements concluded and in force in the country, and on the sectors concerned and the number of workers covered.**

The Committee is raising other matters in a request addressed directly to the Government.

Trinidad and Tobago

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1963)

Previous comment

Articles 2, 3 and 4 of the Convention. Trade Unions Acts (TUA). In its previous comments the Committee had requested the Government to take the necessary measures to amend sections 10 and 18(1)(d) of the TUA, relating to trade union registration and cancellation thereof, as well as sections 16(4) and 33 of the TUA, concerning financial supervision of trade unions and the administration of their funds so as to bring these sections into full conformity with the Convention. The Committee notes the Government's indication that, following stakeholder consultations and tripartite meetings held in 2019 and after disruptions in the operations of the Ministry of Labour due to the COVID-19 pandemic, a draft policy paper for the amendment of the TUA was submitted to Cabinet in June 2021. The Government indicates that the International Trade Union Confederation's comments as well as this Committee's comments were utilized to develop the said paper, which aims at giving effect to the Convention. **Noting that no developments appear to have taken place since the draft policy paper was submitted to Cabinet in June 2021, the Committee strongly encourages the Government to take the necessary steps so that the TUA is amended without further delay and requests it to provide a copy of the legislation once adopted.**

Article 3. Right of organizations to organize their activities freely and to formulate their programmes. Industrial Relations Act (IRA). In its previous comments, the Committee had requested the Government to take the necessary measures to amend sections 59(4)(a), 61(d), 65, 67 and 69 of the IRA concerning the majority required for a strike, recourse to the courts to end a strike, and the prohibition of industrial action so as to bring these sections into full conformity with the Convention. The Committee takes note of the Government's indication that the draft policy paper for the amendment of the IRA submitted to

Cabinet in January 2017 was later revised to incorporate the recommendations of the National Tripartite Advisory Council and re-submitted to Cabinet for its consideration in May 2021. **Regretting that no developments appear to have taken place since then, the Committee urges the Government to take the necessary steps so that the IRA is amended without any further delay and requests it to provide a copy of the legislation once adopted.**

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1963)

Previous comment

The Committee notes the Government's reply to the 2019 observations of the International Trade Union Confederation. **The Committee requests the Government to provide statistics on the number and nature of complaints of anti-union discrimination, in particular dismissals, filed to the competent authorities, their follow-up and outcome as well as statistics on applications made to the court for such industrial relations offences.**

Workers covered by the Convention. In its previous comments the Committee referred to the need to amend section 2(3) of the Industrial Relations Act (IRA) which excluded certain categories of workers from its scope of application. The Committee notes the Government's indication that a revised draft policy paper for the amendment of the IRA, developed with the social partners and submitted to Cabinet for its consideration in May 2021, recommends extending the scope of workers and include teachers, Central Bank employees and domestic workers, now excluded by virtue of section 2(3) of the IRA. **Duly noting these elements, the Committee hopes that the amendment will also include the apprentices and persons in enterprises with policy and other managerial responsibilities, also excluded by virtue of section 2(3) of the IRA. Noting that no developments appear to have taken place since the draft policy paper was submitted to Cabinet in May 2021, the Committee strongly encourages the Government to take the necessary steps so that the IRA is amended without further delay and requests it to provide a copy of it once adopted.**

Article 4 of the Convention. Promotion of collective bargaining. For several years the Committee has been referring to the need to amend section 34 of the IRA, which provides that in order to be recognized as a collective bargaining agent, a trade union should represent 50 per cent of the workers in the bargaining unit. The Committee notes the Government's indication that a non-recognized majority union was able to negotiate collectively on behalf of workers with a few companies in the oil and gas sector and that, given the success of the agreements, the union eventually gained recognition. The Government also indicates that the above-mentioned revised draft policy paper for the amendment of the IRA, submitted to Cabinet in May 2021, aims at ensuring that employers and workers can function effectively in the industrial relations system. The Committee observes, however, that the Government does not indicate that the revised draft policy paper for the amendment of the IRA proposes any amendments to section 34. **Noting that the review of the IRA is still under way, the Committee expects that the Government will take the necessary measures to ensure that this provision is amended so that, if no union in a specific negotiating unit meets the required threshold of representativeness to be able to negotiate on behalf of all workers, minority trade unions are able to negotiate, jointly or separately, at least on behalf of their own members. The Committee requests the Government to indicate any progress made in this respect.**

Articles 4 and 6 of the Convention. Representativeness for the purposes of collective bargaining in the public sector. For several years the Committee has been referring to the need to amend section 24(3) of the Civil Service Act (CSA), which affords a privileged position to already registered associations, without providing objective and pre-established criteria for determining the most representative association in the civil service. The Committee notes the Government's indication that the amendment of the CSA

would require significant consultation with relevant stakeholders. **Recalling that decisions concerning the most representative organization should be made by virtue of objective and pre-established criteria so as to avoid any opportunities for partiality or abuse, the Committee expresses its firm expectation that the necessary measures will be taken so that section 24(3) of the CSA is modified accordingly. The Committee requests the Government to indicate any developments in this regard.**

Application of the Convention in practice. **The Committee requests the Government to provide statistics as to the number of collective agreements concluded, specifying the sectors concerned, their level and scope, as well as the number of enterprises and workers covered.**

Tunisia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1957)

Previous comment

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022, which contain allegations of interference in trade union activities concerning: (i) the annulment by the Tunis Court of First Instance in December 2021 of the decision of the National Council of the General Federation of Tunisian Workers (UGTT) to convene an extraordinary non-elective congress, and (ii) infringements of the right to strike in the public broadcasting sector, with the large-scale deployment of police forces and the conduct of interrogations. The Committee notes the Government's reply, dated 28 October 2022, which states in this respect that the UGTT has appealed against the decision of the court of first instance, and that the police forces were deployed solely to ensure the maintenance of public order. The Committee also notes the Government's reply to the observations made by the ITUC in 2018 concerning allegations of intimidation and threats against the UGTT. The Committee notes the Government's indication that it has not officially received any complaints in this regard from the UGTT, nor have such allegations been raised in meetings with its members, during collective bargaining or in meetings of the National Social Dialogue Council (CNDS). In view of the above, the Committee recalls the obligation under the Convention for States to ensure that trade union leaders and members can conduct their activities without hindrance in a climate free from violence, pressure and threats of any kind. **With reference to the annulment of the extraordinary non-elective Congress of the UGTT, the Committee requests the Government to provide the judgment of the Court of Appeal as soon as it is available.**

Articles 2 and 3 of the Convention. Legislative amendments. The Committee notes with **deep regret** that the Government has not reported any progress in bringing the legislation into conformity with the Convention and that it only repeats the explanations already supplied in response to the Committee's long-standing recommendations. **The Committee is bound to recall below its main recommendations and once again urges the Government to take all the necessary measures to give full effect to the provisions of the Convention:**

- **Right of workers, without distinction whatsoever, to establish and join organizations. The Committee urges the Government to take the necessary measures to amend section 242 of the Labour Code to ensure that minors who have reached the statutory minimum age for admission to employment (16 years under section 53 of the Labour Code) are able to exercise their trade union rights without authorization from their parent or guardian.**
- **Right of organizations to elect their representatives in full freedom. The Committee urges the Government to take the necessary measures to amend section 251 of the Labour Code to allow foreign workers access to the functions of trade union leadership, at least after a reasonable period of residence in the host country.**

- ***Right of workers' organizations to organize their activities and formulate their programmes. The Committee urges the Government to take the necessary measures to amend the following sections of the Labour Code concerning restrictions on the exercise of the right to strike: section 376bis (approval of the central workers' confederation before declaring a strike); section 376ter (compulsory indication of the duration of the strike in the strike notification); and sections 387 and 388 (possibility of imposing penalties in the event of an unlawful strike). With regard to section 381ter of the Labour Code (determination of the list of essential services by decree), the Committee once again requests the Government to indicate whether the decree provided for by this section has been adopted.***

Right of workers' organizations to organize their activities and formulate their programmes without interference from the public authorities. The Committee notes the adoption of the decree of 26 September 2018 establishing criteria for trade union representativeness at the national level, which include: (i) the number of union members up to the end of 2017; (ii) the date of the last electoral congress of the trade union organization; (iii) the number of sectoral structures of the trade union organization and the nature of its activity; and (iv) the number of local and regional structures of the organization concerned. The Committee notes the Government's indication that, pursuant to this decree, the minister for social affairs has designated the following organizations as the most representative at national level for the appointment of members of the CNDS, namely: the UGTT for workers' organizations; the Tunisian Confederation of Industry, Commerce and Handicrafts (UTICA), for employers' organizations in the non-agricultural sector; and the Tunisian Federation of Agriculture and Fisheries (UTAP), for employers' organizations in the agricultural sector. ***Observing that trade union representativeness was determined by taking into account the number of members at the end of 2017, the Committee requests the Government to specify in its next report the frequency and mechanism for measuring trade union membership for the purpose of appointing members of the CNDS. In addition, the Committee, like the Committee on Freedom of Association in Case No. 2994 (400th Report, November 2022, paragraph 70) requests the Government to engage in inclusive consultations with all workers' and employers' organizations concerned to ensure that the determination of representative organizations at sectoral and enterprise level are also based on clear, pre-established and objective criteria. The Committee requests the Government to provide information on all measures taken in this regard.***

[The Government is asked to reply in full to the present comments in 2023.]

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1957)

[Previous comment](#)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022, which contain allegations of violations of the right to collective bargaining, a Circular (No. 20) from the Head of State having been sent in December 2021 to all ministries and government institutions to prohibit any person from negotiating with the trade unions without the prior authorization of the Head of Government. In this regard, the Committee notes the Government's reply, dated 28 October 2022, according to which the objective of Circular No. 20, which requires prior authorization from the President of the Government before launching negotiations with the trade unions, is linked to the examination of requests from the unions in order to check their conformity with the legal provisions and the extent of their financial impact on the budget of the State. However, the Government adds that an agreement was reached at a meeting held by the Presidency on 14 September 2022 on salary increases for civil servants and other public sector employees and on the amendment of Circular No. 20, in order, firstly, to guarantee the right to free collective bargaining and, secondly, to ensure coordination between the various conflicting interests. ***In order to ensure full***

observance of the Convention, the Committee requests the Government to provide a copy of the revised Circular and information on its implementation in practice. The Committee also notes with **regret** that the Government has still not provided its comments on the 2014 observations of the ITUC regarding the non-observance of collective agreements in two specific cases (remuneration of refuse workers; biscuit-making sector). More than six years after the occurrences, the Government merely indicates that the information requested will be sent once the data has been obtained from the administrative departments concerned. **The Committee trusts that the Government will show greater cooperation in the future and will provide information on the remedies found in these two cases.**

Article 4 of the Convention. Promotion of collective bargaining. With regard to the question raised in its previous comments concerning the refusal of approval or the cancellation of a collective agreement under sections 38–41 of the Labour Code, the Committee notes the Government's indication that this is an eventuality which is not substantiated in practice. While duly noting this information, the Committee recalls that any provision authorizing in general terms the approval or cancellation of collective agreements by the authorities represent a risk of not being compatible with the Convention. **The Committee therefore requests the Government to take the necessary steps, in consultation with the social partners, to revise the above-mentioned provisions in order to ensure the full conformity of the national legislation with Article 4 of the Convention.**

Right to collective bargaining in practice. The Committee notes the Government's indication that there are 54 sectoral collective agreements in force, covering some 1.5 million workers. **The Committee requests the Government to: (i) continue providing information on the number of agreements and accords concluded in the country and the number of workers covered; and (ii) provide information on the steps taken to promote collective bargaining in the various sectors of the economy.**

Türkiye

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1993)

Previous comment

The Committee notes the observations of the Confederation of Public Employees' Trade Unions (KESK), received on 31 August 2022; as well as those of the International Trade Union Confederation (ITUC), and the Confederation of Progressive Trade Unions of Türkiye (DİSK) received on 1 September 2022 which concern questions examined in this comment, and the Government's reply thereto. The Committee also notes the observations of Turkish Confederation of Employers' Associations (TISK) communicated with the Government's report.

Civil liberties. In its previous comment, the Committee had requested the Government to provide its detailed comments on the lengthy and serious allegations of violations of civil liberties and trade union rights that date back to 2016. The Committee notes that the Government reiterates its previous general indications citing a number of constitutional and legal provisions guaranteeing freedom of association and, in particular, section 118 of the Penal Code concerning the offence of forcing someone to join or leave a union or to prevent the activities of a union; and indicates that there are both administrative and penal sanctions against those who violate these provisions which aim to protect trade union activities from all kinds of violence, pressure and a threatening environment. The Government also once again refers to the constitutional and statutory framework governing the freedom of assembly in Türkiye, indicating that everyone has the right to hold unarmed and peaceful meetings and demonstrations without prior authorization – however, with prior notification to administrative authorities – and that this right shall be restricted only by law on grounds of national security, public order, prevention of commission of crime, protection of public health and public morals, or the rights and freedoms of others. Act No. 2911 on Meetings and Demonstrations and the relevant

Regulation set the legal framework for exercising this right. In this framework, meetings and demonstrations can be organized in determined places, with notification made to the administrative authorities in order to ensure that the necessary security measures are taken. Security measures are planned and implemented regardless of the affiliation of the organizers, with a view to protecting the life and property of the organizers and other citizens. The Government indicates that all kinds of peaceful meetings and demonstrations take place in a safe and free environment, but when some trade union members transgress the law, destroy public and private property and seek to impose their own rules during the meetings and demonstrations, then security forces are obliged to intervene to preserve public order and safety. The Government adds that for the latest May Day, celebrations were held by all trade unions and confederations all around the country. According to the Government, the rate of intervention in demonstrations and meetings has decreased from 3.2 per cent in 2015 to 0.6 per cent in 2021 and the number of persons subjected to judicial and administrative proceedings in the same period decreased from 11,330 to 2,640 persons. The Government finally adds that since the enactment of Act No. 6356 and the substantial amendment of Act No. 4688, the rate of unionization has steadily increased, reaching 72.36 per cent in the public sector and 14.32 per cent in the private sector. There are currently seven trade unions' confederations and 12 public servants' trade unions' confederations. Taking due note of this information, the Committee notes with **deep regret** that the Government does not provide any concrete information in response to the many specific and very serious allegations of violations of civil liberties made by the social partners in the past years. The Committee notes that in their latest observations, the KESK, the DİSK and the ITUC denounce more cases of arrest, detention and prosecution of trade unionists including the imprisonment of six KESK members and executives, among them Mr Mehmet Ali Köseoğlu, secretary of Collective Bargaining Agreement and legal affairs of Yapi-Yol-Sen, a KESK affiliate, arrested on 3 June 2022 and still held in pre-trial detention, without being informed of the charges against him or having a trial date; and the arrest in Ankara of eight leaders of the Trade Union of Employees in Public Health and Social Services (SES) on unspecified charges on 25 May 2021. The Committee notes the Government's indication that there is no information in the records of the Ministry of Labour regarding these cases. The Committee recalls that the alleged instances of denial of freedom of assembly and demonstration include: an absolute ban on all forms of public gatherings in the city of Van, declared on 21 November 2016 and regularly extended since by the Governor's office; a Government ban on May Day celebrations in Istanbul Taksim square; the arrest of 212 demonstrators in Istanbul for attempting to hold a May Day protest in defiance of the coronavirus lockdown rules, including members of several DİSK affiliates; intervention of security forces in the awareness raising action of KESK women leaders on the occasion of the International day for the elimination of violence against women on 22 November 2021; a ban on a public gathering of KESK and other union representatives in Antalya, planned to express views on the annual budget that was being discussed in Parliament, on 12 December 2021; use of tear gas and physical force to disperse a gathering of KESK leaders and members to protest low wages in front of the Turkish Statistical Institute on 1 July 2022; intervention with tear gas and violence in the demonstration organized by KESK women representatives to protest against the withdrawal of Türkiye from the Council of Europe's Istanbul convention on violence against women in Ankara on 26 July 2022; and violent police intervention in the sit-in organized inside Farplas Automotive factory on 31 January 2022 to protest against the dismissal of nearly 150 workers. The police went to seek protesting workers on the rooftop of the factory, where it arrested them with violence, using pepper gas, risking their fall from the roof, using foul language against women, dragging them on the ground by the hair and breaking their bones. Reportedly 106 workers and union members and two officers of the DGD-SEN union were arrested by the police and released after giving their statements. **The Committee urges the Government to provide detailed comments on these serious allegations of violations of civil liberties.**

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution)

The Committee notes that in March 2021, the Governing Body approved the report of the tripartite committee set up to examine the representation submitted by the Action Workers' Union Confederation (Aksiyon-Is) under article 24 of the ILO Constitution (GB.341/INS/13/5). The Committee notes that the tripartite committee issued conclusions and made recommendations in relation to: (i) dissolution of trade unions pursuant to the Decree-Law No. 667; (ii) the situation of workers who suffered from reprisals and retaliatory acts for their membership in the dissolved unions; and (iii) the situation of the imprisoned leaders and members of the dissolved unions. The Committee will examine measures taken by the Government in respect of the recommendation of the tripartite committee below.

The Committee recalls that the tripartite committee found that the workers dismissed for membership in dissolved unions were punished for having exercised their right to join organizations of their own choosing guaranteed by *Article 2* of the Convention without any possibility of review of their individual situation. The Inquiry Commission, which is mandated to examine the applications of workers dismissed under the state of emergency decrees, did not review the legality of the closure of the relevant trade union or any of the individual's own activities; membership in a closed union was considered sufficient ground to reject an application against dismissal. The tripartite committee found that this amounted to a denial of the right of dismissed workers to an effective remedy. Concerning the allegation of imprisonment of the chairperson of Aksiyon-Is and the Chairpersons of PAK MADEN IS, PAK TEKSIL IS, PAK EGITIM IS, PAK TASIMA IS, PAK SAGLIK IS, and PAK HIZMET IS, as well as many members of administrative committees, the tripartite committee stressed the importance of the right to freedom and security of person and freedom from arbitrary arrest and detention, as well as the right to a fair trial by an independent and impartial tribunal, in accordance with the provisions of the Universal Declaration of Human Rights. The tripartite committee urged the Government to ensure that a full, independent and impartial review be made with regard to all those workers who suffered from reprisals and retaliatory acts for their membership in the dissolved unions, in order to determine whether, independently of their membership in such unions, they had carried out any unlawful activity that would justify their dismissal. The tripartite committee also expected that the imprisoned trade unionists receive a swift and impartial trial and requested the Government to submit copies of the relevant judgments to this Committee. The Committee notes the following information provided by the Government on the review mechanism of the Inquiry Commission: (i) the Inquiry Commission on the State of Emergency initiates its investigations on the ground that the member concerned has a membership, affiliation, connection or contact with terrorist organizations, or structures/entities, or groups established by the National Security Council as engaging in activities against the national security of the State; (ii) the investigations on the applicants from the confederations and trade unions which were closed by the decree laws are ongoing; (iii) as an effective remedy, the Commission delivers individualized and reasoned decisions after speedy and extensive examination; it is aimed that all application files whose examination process are ongoing will be concluded during the Commission's mandate period.

The Committee **deeply regrets** that the Government does not refer to any measures taken to address the concerns and recommendations of the tripartite committee regarding the denial of the rights of members and leaders of dissolved unions to an effective remedy and a fair trial. The Committee further **deeply regrets** that the Government does not provide any information on the situation of imprisoned union leaders. ***In view of the foregoing, the Committee urges the Government to take all necessary measures to implement the recommendations of the tripartite committee and to ensure that the right to an effective remedy and to a fair trial of the members and leaders of dissolved unions is duly respected. The Committee requests the Government to provide information thereon.***

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations. Senior public employees, magistrates and prison staff. The Committee recalls that for a number of years it has been requesting the Government to amend section 15 of Act No. 4688 which excludes senior public employees, magistrates, and prison staff from the right to organize. The Committee notes that in the Government's view, section 15 was designed in line with legal regulations, judicial decisions, and ILO Conventions. The Committee recalls in this regard that it has always considered that: (i) to bar senior public officials from the right to join trade unions which represent other workers in the public sector is not necessarily incompatible with freedom of association on the condition that they should be entitled to establish their own organizations to defend their interests; and (ii) while the exclusion of the armed forces and the police from the right to organize is not contrary to the Convention, the same cannot be said for prison staff.

Locum workers (teachers, nurses, midwives, etc), public servants working without a contract of employment and pensioners. The Committee had previously requested the Government to provide its comments on the observations of MEMUR-SEN concerning the need to ensure freedom of association for these categories of workers. The Government indicates in this regard that: (i) only public servants as defined in section 3 of Act No. 4688 on Public Servants' Trade Unions and Collective Agreement can join trade unions established within the scope of the Act and locum workers cannot be employed under any cadre or position as specified in section three; and (ii) retired public servants cannot establish or join public servants' unions, as sections 6 and 14 of Act No. 4688 restrict these rights to active public servants. According to the Government, they have, however, formed several associations that can bring the issues concerning them to the attention of the Government. The Committee recalls in this respect that: (i) with regard to the right to establish and join organizations, the Convention does not allow any distinction based on whether the employees are engaged on a permanent or temporary basis, or with regard to their contractual status or the lack thereof; and (ii) legislation should not prevent former workers and retirees from joining trade unions, if they so wish, particularly when they have participated in the activity represented by the union.

The Committee requests the Government to take necessary measures to review the legislation with a view to ensuring that senior public employees, magistrates and prison staff, locum workers, public servants working without a contract of employment and retirees can enjoy and exercise their right to establish and join organizations. The Committee requests the Government to provide information thereon.

Article 3. Right of workers' organizations to organize their activities and formulate their programmes. Suspension and prohibition of strikes. The Committee recalls that section 63(1) of Act No. 6356 provides that a lawful strike or lockout that had been called or commenced may be suspended by the President of the Republic for 60 days by a decree if it is prejudicial to public health or national security and that if an agreement is not reached during the suspension period, the dispute would be submitted to compulsory arbitration. For a number of years, the Committee has been requesting the Government to ensure that section 63 of Act No. 6356 is not applied in a manner so as to infringe on the right of workers' organizations to organize their activities free from government interference. While observing that in a decision dated 22 October 2014, the Constitutional Court ruled that the prohibition of strikes and lockouts in banking services and municipal transport services under section 62(1) was unconstitutional, the Committee noted that pursuant to a Decree with power of law (KHK) No. 678, the Council of Ministers can postpone strikes in local transportation companies and banking institutions for 60 days. The Government indicates in this regard that the decision of the President to postpone a strike is taken within its context and its rationale is clearly stated in the decision, hence this authority is exercised within clearly stated boundaries. Furthermore, pursuant to article 125 of the Constitution, this decision is subject to judicial review as an administrative decision. The Government indicates that 14 strikes have been postponed since 2012 and in the regular reporting period only one postponement decision was accepted, which resulted in the agreement of the parties and the signing of a CBA. The Committee

further notes the observation of the DİSK, indicating that between 2015-2019, nine strikes concerning 235 workplaces and 169,705 workers were postponed with a cabinet decree. ***Recalling that strikes can be suspended only in essential services in the strict sense of the term, for public servants exercising authority in the name of the State or in the event of an acute national crisis, the Committee once again requests the Government to ensure that these principles are taken into consideration in the application of section 63 of Act No. 6356 and KHK No. 678.***

The State Supervisory Council. The Committee had previously requested the Government to provide information on any investigations or audits of trade unions undertaken by the Council, pursuant to Decree No. 5 or article 108 of the Constitution, and their results including any sanctions assessed. The Committee notes the Government's indication that the Constitutional Court annulled the phrase "may apply a measure or" in section 6(ç) of the Presidential Decree No. 5, which provided that the State Supervisory Council may apply a measure of removal from duty or propose the application of this measure to the competent authorities for officials of all levels and ranks who are deemed inconvenient to remain on duty in terms of the requirements of public service. The Government explains that following that decision, the State Supervisory Council no longer has the authority to dismiss or suspend any trade union official but can only propose the application of these measures to the competent authorities, which, in the case of trade unions, refers to the trade union's own supervisory bodies and disciplinary committees. The Committee takes due note of the Government's indication that the Council has not carried out any investigation or audit against any trade union.

Article 4. Dissolution of trade unions. The Committee notes the conclusions of the tripartite committee referred to above about the situation of trade unions dissolved pursuant to Decree-Law No. 667. The tripartite committee noted that these unions were dissolved by the executive branch of the Government, while under *Article 4* of the Convention, any dissolution of workers' or employers' organizations can only be carried out by the judicial authorities, which alone can guarantee the rights of defence. The tripartite committee further noted that while according to the Government, the representatives of these unions had failed to file applications with the Inquiry Commission mandated to examine their cases, the dissolved organizations had a limited capacity to present their claims due to the imprisonment of their leaders and members and seizure of their funds pursuant to the state of emergency Decree-Laws. The tripartite committee noted that as the time for filing an application challenging the closure of the unions has elapsed, it would now appear impossible to bring the dissolution of trade unions before a normal judicial procedure and added that the Government itself does not provide any explanation or details concerning the actions of the trade unions justifying their dissolution other than a declaration set out in Decree-Law No. 667 indicating that they were connected to FETÖ/PDY. The tripartite committee therefore urged the Government to take the necessary measures to ensure that the dissolution of trade unions pursuant to Decree-Law No. 667 is reviewed through the normal judicial procedures, which should also enable those unions to be able to be fully represented to defend their case. The Committee ***regrets*** that the Government merely indicates in this respect that two confederations and ten trade unions dissolved due to their connections to the FETO terrorist organization have applied to the Inquiry Commission and their cases are pending. ***Recalling that the dissolution and suspension of trade unions constitute extreme forms of interference by the authorities in the activities of organizations, and that Article 4 of the Convention prohibits the imposition of such measures by administrative authority, the Committee urges the Government to take all necessary measures to comply with the recommendation of the tripartite committee and to provide detailed information thereon. The Committee further requests the Government to provide information on the outcome of the cases concerning dissolved unions and confederations that are pending before the Inquiry Commission as well as on the number and outcome of any appeals against the negative decisions of the Inquiry Commission.***

[The Government is asked to reply in full to the present comments in 2023.]

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1952)

Previous comment

The Committee notes the observations of the Confederation of Public Employees' Trade Unions (KESK), received on 31 August 2022; as well as those of the International Trade Union Confederation (ITUC), and the Confederation of Progressive Trade Unions of Türkiye (DİSK) received on 1 September 2022 which concern issues examined in this comment, and the Government's reply thereto. The Committee also notes the observations of Turkish Confederation of Employers' Associations (TISK) communicated with the Government's report.

The Committee further notes that the Committee on Freedom of Association drew its attention to the legislative aspects of Case No. 3410 (Report No. 399, June 2022, paragraph 352). These matters are discussed below.

Articles 1-6 of the Convention. Scope of the Convention. Prison staff. The Committee had noted in its previous comments that the prison staff did not enjoy the right to organize, even though they were covered by the collective agreements concluded in the public service like all other public servants. The Government indicates in this regard that: (i) the relevant provisions of the ratified freedom of association and collective bargaining conventions were taken into account while drafting Act No. 4688; (ii) section 15 excepts those working in strategically important organizations and in positions that use the power of State police and intelligence, including prison staff, from the right to join and form a union and; (iii) this provision has been drafted considering that there will be no compensation for the disruptions in these public services carried out by security, justice and high-level public servants. The Committee notes with **concern** that despite its longstanding comments under Conventions Nos 87 and 98, the Government does not report any progress concerning the recognition of the right of prison staff to organize. It recalls in this regard that under the terms of Convention No. 98, prison staff have the right of collective bargaining, which includes the right to be represented in negotiations by the organization of their choosing. Noting the Government's indication concerning eventual "disruption" in services carried out by the categories of workers excluded under section 15, the Committee recalls that the right to establish and join organizations and to bargain collectively through the organization of one's choice, should be distinguished from the right to strike. **The Committee urges the Government to take the necessary measures, including through revising section 15 of Act No. 4688, to guarantee that the prison staff can be effectively represented by the organizations of their own choosing in collective bargaining. It requests the Government to provide information with respect to any developments in this regard.**

Locum workers and public servants working without a written contract. In its previous comment, the Committee had noted that these categories of workers are excluded from the scope of Act No. 4688 and had requested the Government to provide detailed information on their freedom of association and collective bargaining rights. The Government indicates that article 51 of the Constitution recognizes the right to unionize as a constitutional right to workers, employers and public servants. Public servants are defined in section 3(a) of Act No. 4688 and persons working as a fill-in at the public institutions (locum workers) cannot be employed in any cadre or position as specified in section 3(a), and therefore cannot be members of the unions established within the scope of Act No. 4688. Noting the Government's indications, and considering that locum work arrangements concern inter alia workers in public education and health sectors such as teachers, midwives and nurses, the Committee recalls that under *Articles 5(1) and 6* of the Convention, only "members of the armed forces and the police" and "public servants engaged in the administration of the State" can be excepted from the guarantees enshrined in the Convention and the contractual status of public sector employees, or the lack thereof, should not affect their enjoyment of their rights under the Convention. **The Committee requests the Government to take the necessary measures, including legislative measures, to ensure that these categories of**

workers can exercise their right to organize and collective bargaining, either by allowing them to join organizations formed under Act No. 4688 or by providing a framework within which they can create their own organizations. It further requests the Government to provide information on any measures taken in this respect.

Articles 1, 2 and 3 of the Convention. Massive dismissals in the public sector under the state of emergency decrees. In its previous comments the Committee had noted that following the 2016 coup attempt, a high number of trade union members and officials were suspended and dismissed under the state of emergency and that an Inquiry Commission was established to review applications against the measures taken in that context, whose decisions were appealable before administrative courts. The Committee had requested the Government to provide information on the number of applications received from trade unionists and the number and outcome of appeals against the negative decisions of the Inquiry Commission concerning them and to respond to the allegations concerning cases of dismissal of members of the Education and Science Workers Union of Türkiye (EĞİTİM SEN). The Government indicates in this regard that: (i) the dismissal of public servants, which may include some trade union representatives by the state of emergency decrees is grounded in their membership, affiliation or connection to terrorist organizations; (ii) decisions by the Inquiry Commission can be appealed before nine branches of Ankara administrative courts that are specifically authorized by the Council of Judges and Prosecutors; (iii) as of 27 May 2022, the Commission had received 127,130 applications and issued decisions on 124,235, therefore the number of applications where examination is still pending amounts to 2,985. Within 33 months since the beginning of the Commission's activity, 87 per cent of the applications were examined; (iv) the number of rejected applications amounts to 106,970 and the number of admitted ones to 17,265. Among the admitted applications, 61 concerned the opening of organizations that were shut down including associations; (v) there is no statistical information on the number of trade union representatives affected by the state of emergency decrees or those who have submitted applications to the courts. However, two confederations and ten trade unions dissolved due to their connection to the FETO terrorist organization have applied to the Inquiry Commission and their cases are still pending; (vi) according to the figures contained in the observation of Education International, the admittance rate for reinstatement of EĞİTİM SEN members is much higher than the average rate (38.5 per cent and 11.5 per cent respectively), which shows that there is no discrimination against EĞİTİM SEN members. The Committee further notes KESK's observations in this regard, reporting that: (i) in total, 4,267 KESK members from all public sectors were dismissed under the state of emergency decrees; (ii) more than five years after the dismissals, some of the applications of dismissed KESK members and officials are still pending before the Inquiry Commission. The organization alleges that the delay in examining their applications is deliberate and adds that the complete procedure including appeal may take up to ten years; (iii) KESK members who had signed the petition calling for an end to fighting in East and Southeast Anatolia six months before the attempted coup, and who were later dismissed under state of emergency decrees, won a case before the Constitutional Court on 26 July 2019. The Court underlined that no sanction can be imposed on these academics for having signed the petition, however, the Inquiry Commission did not take this judgment into consideration; (iv) there are no legal grounds for accusing KESK members of connection with terrorist organizations or any other organizations carrying out activities against national security. The dismissals took place arbitrarily and the employees were not informed of accusations and could not defend themselves. They still cannot avail themselves of any transparent mechanism to challenge the so-called evidence against them; and (v) even though the state of emergency is lifted, governors and ministries continued to use the provisional section 35 of the Emergency Decree Law No. 375, dismissing 21 teacher members of EĞİTİM SEN from Diyarbakir on 29 November 2021. The Committee notes with **deep regret**, that once again, despite the Committee's repeated requests, the Government does not provide information on the number of cases concerning trade unionists before the Inquiry Commission and administrative courts or the outcome of these cases.

In this context, the Committee notes with **concern** the KESK observations concerning the delay in the examination of applications of unionists by the Inquiry Commission and the problems indicated concerning defence rights, examination of evidence and burden of proof. The Committee recalls in this regard that adequate protection against anti-union discrimination requires procedures that are effective and rapid, ensuring without delay independent, expeditious and in-depth investigations into the allegations. In view of the Government's emphasis on stating that the dismissals and suspensions are based on presumed connection with terrorist organizations, and the KESK's allegation that there is no transparent mechanism through which public officers can challenge the evidence against them, the Committee firmly recalls that in procedures concerning alleged anti-union discrimination, placing on workers the burden of proving that the act in question occurred as a result of anti-union discrimination may constitute an insurmountable obstacle to establishing liability and ensuring an appropriate remedy. ***In view of the foregoing, the Committee once again expresses its firm hope that the Inquiry Commission and the administrative courts that review its decisions shall carefully and expeditiously examine the grounds for the dismissal of trade union members and officials in the public sector and order reinstatement of the trade unionists dismissed for anti-union grounds. The Committee also requests the Government to provide information on how the evidence is examined and the burden of proof applied in cases concerning trade unionists before the Inquiry Commission and administrative courts. It also once again urges the Government to provide detailed and specific information on the number and outcome of applications concerning trade union members and officers before the Inquiry Commission, as well as the number and outcome of appeals against negative decisions on those applications. Finally, the Committee requests the Government to provide its comments with respect to the allegation of continued use of state of emergency powers to dismiss union members.***

Article 1. Inadequate protection against anti-union dismissals. Private sector. The Committee notes that Case No. 3410 before the Committee on Freedom of Association (CFA) partly concerns the question of inadequateness of the legal remedies provided to victims of anti-union dismissals in private sector. It notes that the legal provisions in question are section 21(1) of the Labour Act (Act No. 4857) and section 25(5) of the Law on Trade Unions and Collective Labour Agreements (Act No. 6356). The Committee notes that section 21(1) of Act No. 4857 provides:

If the court or the arbitrator concludes that the termination is unjustified ... the employer must re-engage the employee in work within one month. If, upon the application of the employee, the employer does not re-engage him in work, compensation to be not less than the employee's four months' wages and not more than his eight months' wages shall be paid to him by the employer.

Section 25(5) of Act No. 6356 provides:

Where it has been determined that the contract of employment has been terminated for reasons of trade union activities, union compensation shall be ordered independent of the requirement of application of the worker and the employer's granting or refusing him permission to restart work in accordance with article 21 of the Law No. 4857. However, in case the worker is not allowed to start work, the compensation specified in the first paragraph of Article 21 of this Law No. 4857 shall not apply. Non-application to a court pursuant to the aforementioned provisions of the Law No. 4857 shall not be an obstacle for the worker to claim union compensation separately.

The Committee further notes the Government's indication in its reply to the CFA case complainants, confirming that the national legislation does not contain provisions on absolute reinstatement to work, and instead stipulates the right of the employer to choose whether to rehire the employee or to pay an additional compensation; furthermore, according to the Government under civil law no employer should be forced to recruit a worker. The Committee also notes the observations of the DİSK in relation to this matter, indicating that the inability of the courts to order the employer to reinstate dismissed workers makes it easier for some employers to get rid of the union at the workplace by simply dismissing all active union members. The DİSK also refers to the ruling of the European Court of Human Rights in *Tek Gıda İş Sendikası v. Türkiye* where the court inferred from an employer's refusal

to reinstate dismissed employees and the award of insufficient compensation to deter the employer from any future wrongful dismissals, that the national law, as applied by the courts, did not impose sufficiently deterrent penalties on the employer, which, according to the Court had by carrying out large-scale wrongful dismissals, negated the applicant union's right. The Committee further notes the allegations of the ITUC, indicating that trade unionists in Türkiye live under the constant threat of retaliation, any attempt to form unions being deterred by the dismissal of union organizers. Both ITUC and DİSK refer to numerous cases of anti-union dismissals across different sectors in their observations. The Committee recalls that in its previous comments as well, it had noted numerous allegations of anti-union discrimination, especially dismissals, in practice. In view of the recurrent indications as to the frequent occurrence of anti-union dismissals, the Committee is bound to note that the available legal remedies and sanctions against anti-union dismissals do not seem to have a strong deterrent effect. The Committee notes in this regard that pursuant to the current law: (i) judicial authorities can in no circumstances impose an order of reinstatement on the private sector employer; (ii) section 25(4) of Act No. 6356 fixes a minimum amount for "union compensation" in case of acts of anti-union discrimination other than dismissal, which is the worker's annual wage, but in cases of anti-union dismissal, neither a minimum amount nor a cap is fixed in the law. The issue seems to be left to the discretion of the judicial authority; and (iii) the Government does not refer to any other existent penalty or sanction for anti-union dismissals, and section 78 of Act No. 6356 containing its penal provisions is silent about anti-union discrimination. The Committee recalls in this regard, that it has always considered that reinstatement should at least be included among the range of measures that can be ordered by the judicial authorities in the event of anti-union discrimination; and that the effectiveness of legal provisions prohibiting acts of anti-union discrimination depends also on the sanctions provided, which should be effective and sufficiently dissuasive; and that the purpose of compensation must be to compensate fully, both in financial and occupational terms, the prejudice suffered. ***In view of the foregoing, the Committee urges the Government to take all the necessary measures to revise the legislation, with a view to ensuring the provision of an adequate protection against anti-union dismissals in the private sector. Pending legislative reform, the Committee firmly hopes that the judicial authorities will consider the above principles while they exercise their discretion in the determination of the amount of "union compensation". The Committee requests the Government to provide information on any developments in this regard.***

Anti-union discrimination in the public sector. The Committee notes the observations of the KESK, once again denouncing numerous cases of anti-union discrimination against members and officials of its affiliates, including 35 transfers, 6 suspensions and 7 cases of administrative disciplinary measures including blocking promotions and a reprimand. According to the observations, the workers have appealed against several of these measures, where the cases are still pending. The Committee also notes the Government's comments on these allegations, indicating that: (i) public servants have the right to lodge complaints or initiate proceedings against the acts of their superiors or public organizations; (ii) the KESK does not provide any plausible grounds that can establish the existence of anti-union discrimination and; (iii) all the public institutions cited in the KESK 2021 observations informed the Ministry of Labour and Social Security (MOL&SS) that the personnel transfers were necessitated by the requirements of the service. The Government makes the following indications concerning protection against anti-union discrimination in the public sector: (i) section 18 of the Law on Public Servants' Trade Unions and Collective Agreement (Act No. 4688) prohibits anti-union discrimination against public servants including dismissals and transfers; (ii) prime ministry circulars introduce measures to combat mobbing in both public and private workplaces and establish a helpline; (iii) the Ombudsman Institution has the power to investigate anti-union discrimination in the public sector, undertake inspections and draft yearly reports that it can publish and present to the parliament, but has no authority to impose administrative fines. The Committee recalls that it has always emphasized the need to adopt formal provisions clearly recognizing the protection of all public servants

and public sector employees not engaged in the administration of the State (including those who are not trade union officers) against acts of anti-union discrimination, and to provide for effective and sufficiently dissuasive sanctions against those responsible for such acts. The Committee notes that apart from reference to section 118 of the penal code, which concerns the offence of coercion in relation to trade union membership and activities, the Government does not indicate sanctions that can eventually be imposed against the perpetrators of anti-union discrimination in the public sector, or to any compensation that may be awarded to the victims. **Therefore, the Committee requests the Government to indicate whether the law allows sanctioning those responsible for anti-union discrimination in the public sector and whether compensation can be awarded to victims. If there are no such provisions in law, the Committee urges the Government to take the necessary measures in full consultation with social partners, to ensure that the law is amended with a view to ensuring an adequate protection against anti-union discrimination in the public sector. It requests the Government to provide information on any developments in this respect.**

Collection of data on anti-union discrimination in private and public sectors. The Committee recalls that following up on the recommendations of the June 2013 Committee on the Application of Standards of the International Labour Conference, which requested the Government to establish a system for collecting data on anti-union discrimination in both private and public sectors, it has been requesting the Government to provide information on the measures taken to that end. The Committee notes with **regret** that the Government does not report any progress in this regard. **The Committee once again stresses the need to take concrete steps towards establishing the system for collecting such information and expects the Government to provide in its next report information on developments and progress in this respect.**

Article 4. Promotion of collective bargaining. Cross-sector bargaining. In its previous comments, the Committee had noted that while cross-sector bargaining resulting in “public collective labour agreement framework protocols” was possible in the public sector, this was not the case in the private sector. The Committee had requested the Government to consider, in consultation with the social partners, the amendment of section 34 of Act No. 6356 to ensure that it did not restrict the possibility of the parties in the private sector to engage in cross-sector regional or national agreements should they so desire. The Committee notes that the Government reiterates that the existent system is a product of a long and well-established industrial relations system in Türkiye and that it does not prevent parties wishing to enter into agreements at the regional and national level and adds that the MOL&SS is ready to take into consideration the amendment proposals to be made jointly by the social partners regarding section 34 if the social partners reach consensus on such changes. The Committee further notes the observation of the TISK in this regard, indicating that section 34 has long been applied as such and in their discussions prior to the adoption of Act No. 6356, the social partners reached a consensus on preserving the existing system. **The Committee requests the Government to consider taking the necessary measures to initiate a new consultation process with the social partners, with a view to amending section 34 of Act No. 6356 in order to ensure that the parties in the private sector wishing to engage in cross-sector regional or national agreements can do so without impairment. It requests the Government to provide information on the steps taken in this regard.**

Requirements for becoming a bargaining agent. Private sector. Triple threshold requirement. In its previous comments the Committee had noted that section 41(1) of Act No. 6356 set out the following requirement for becoming a collective bargaining agent: the union should represent at least 1 per cent of the workers engaged in a given branch of activities and more than 50 per cent of workers employed in the workplace and 40 per cent of workers of the enterprise to be covered by the collective agreement. The Committee recalls that this issue was also brought up in the framework of CFA Case No. 3021. The Committee had requested the Government to continue monitoring the impact of the perpetuation of the branch 1 per cent threshold requirement on the trade union movement and the national collective bargaining machinery as a whole and to provide information in this respect. The Government indicates

in this regard that as of July 2022, there were 218 trade unions in Türkiye, 60 of which, including five independent unions, passed the 1 per cent threshold required for collective bargaining. There were seven Confederations with 105 affiliate unions, including 55 unions that pass the 1 per cent threshold. Union membership rate in private sector has progressed from 10.56 per cent in January 2015, when the sector threshold was lowered to 1 per cent, to 14.32 per cent in January 2022. The Government adds that the MOL&SS is ready to take into consideration the amendment proposals to be made jointly by the social partners regarding section 41(1) if the social partners reach consensus on such changes. The Committee also notes the TISK observation indicating that granting bargaining rights to unions that are not authorized in the current legislation will disrupt the current labour peace, as trade union rivalry often prevents unions from acting together and this may hamper the conclusion of Collective Bargaining Agreements (CBAs). The Committee further notes that the DISK indicates in this regard that minority unions should have the right to represent at least their members. The Committee notes that according to the information submitted by the Government, only 27.5 per cent of all Turkish unions pass the 1 per cent threshold, the rate being 52.4 per cent among the affiliates of the big confederations, but only 4.4 per cent among independent unions. It further notes that the lowering of the branch threshold in 2015 has had a positive impact on the unionization rate. The Committee trusts that the removal of the branch threshold will have a similarly positive impact on the rate of unionization as well as on the capacity of unions, especially independent unions, to use the collective bargaining machinery. ***The Committee therefore requests the Government to take the necessary measures to initiate the consultation process with the social partners, with a view to amending section 41(1) of Act No. 6356 so as to ensure that more workers' organizations can engage in collective bargaining with the employers. It requests the Government to provide information on the steps taken in this regard.***

Determination of the most representative union and rights of minority unions. Regarding the workplace and enterprise representativeness thresholds, the Committee had noted in its previous comments that section 42(3) of Act No. 6356, provides that if it was determined that there exists no trade union which meets the conditions for authorization to bargain collectively, such information is notified to the party which made the application for the determination of competence. It had further noted that section 45(1) stipulates that an agreement concluded without an authorization document is null and void. While noting the “one agreement for one workplace or business” principle adopted by the Turkish legislation, the Committee had recalled that under a system of designation of an exclusive bargaining agent, if no union represents the required percentage of workers to be declared the exclusive bargaining agent, all unions in the unit, jointly or separately, should be able to engage in collective bargaining, at least on behalf of their own members. The Committee highlighted that by allowing for the joint bargaining of minority unions, the law could adopt an approach more favourable to the development of collective bargaining without compromising the “one agreement for one workplace or business” principle. The Committee notes with **regret** that the Government does not provide information on any developments in this respect. ***The Committee once again requests the Government to take the necessary measures to amend the legislation, in consultation with the social partners, so as to ensure that if no union represented the required percentage of workers to be declared the exclusive bargaining agent, all unions in the unit, jointly or separately, should be able to engage in collective bargaining, at least on behalf of their own members. It requests the Government to provide information on all measures taken or envisaged in this regard.***

Judicial challenges to collective bargaining agent certification. The Committee notes the observations of the DİSK indicating that employers have the right to challenge the union majority certificate issued by the MOL, and pending the judicial proceedings, which might take 6-7 years, the collective bargaining process remains on hold. The DİSK refers to the case of one of its affiliates, Birleşik Metal-İş Union, which was involved in 98 court cases of this type between 2012–20. According to the DİSK, at the end of such proceedings, very often the union has already lost its majority at the workplace. The Committee further notes that according to the DİSK observations, disputes about determination of branch of activity of the

workplace may also lead to lengthy court proceedings that impede collective bargaining. **Noting the potentially negative impact that the proliferation of lengthy court proceedings can have on the development of collective bargaining, the Committee requests the Government to provide its comments on the issues raised by the DĚSK.**

Articles 4 and 6. Collective bargaining rights of public servants not engaged in the administration of the State. Material scope of collective bargaining. The Committee had noted in its previous comments that section 28 of Act No. 4688, as amended in 2012, restricted the scope of collective agreements to “social and financial rights” only, thereby excluding issues such as working time, promotion and career as well as disciplinary sanctions and had requested the Government to remove these restrictions on the material scope of bargaining in the public sector. The Committee notes with **regret** that the Government does not indicate any new developments in this respect. It is therefore bound to once again recall that while the Convention is compatible with systems requiring competent authorities’ approval of certain labour conditions or financial clauses of collective agreements concerning the public sector, public servants who are not engaged in the administration of the State should enjoy the guarantees of the Convention and therefore be able to negotiate collectively their conditions of employment and that measures taken unilaterally by the authorities to restrict the scope of negotiable issues are often incompatible with the Convention. **Bearing in mind the compatibility with the Convention of the special bargaining modalities in the public sector as mentioned above, the Committee again requests the Government to take the necessary measures to ensure the removal of restrictions on matters subject to collective bargaining so that the material scope of collective bargaining rights of public servants not engaged in the administration of the State is in full conformity with the Convention.**

Collective bargaining in the public sector. Participation of most representative branch unions. The Committee recalls that in its previous comment, it had noted that pursuant to section 29 of Act No. 4688, the Public Employers’ Delegation (PED) and Public Servants’ Unions Delegation (PSUD) are parties to the collective agreements concluded in the public service. Even though the most representative unions in the branch are represented in PSUD and take part in bargaining within branch-specific technical committees, their role within PSUD is restricted in that they are not entitled to make proposals for collective agreements, in particular where their demands are qualified as general or related to more than one service branch. The Government indicates in this respect that the collective agreement proposals for each service branch are determined separately by the competent trade unions in each branch and these proposals are then discussed in the technical committees established for each branch of service separately. These committees’ works are conducted independently of each other and the conclusion of an agreement in one branch does not necessarily mean that others are under obligation to conclude one too. The Committee notes that the Government’s indications do not refer to any new developments concerning the role of representative branch unions within the PSUD. **It is therefore bound to once again request the Government to ensure that Act No. 4688 and its application in practice enable the most representative unions in each branch to make proposals for collective agreements including on issues that may concern more than one service branch, as regards public servants not engaged in the administration of the State. The Committee requests the Government to indicate all developments in this respect.**

Public employee arbitration board. In its previous comment, the Committee had noted that in case of failure of negotiations in the public sector, the chair of PED (the Minister of Labour) on behalf of public administration and the chair of PSUD on behalf of public employees, can apply to the Public Employee Arbitration Board. The Board decisions were final and had the same effect and force as the collective agreement. The Committee had requested the Government to take the necessary measures for restructuring the membership of the Public Employee Arbitration Board or the method of appointment of its members so as to more clearly show its independence and impartiality and to win the confidence of the parties. The Government indicates in this regard, that the chair of the board is designated by the President from among the Presidents, Vice-Presidents or Heads of Departments of the Court of

Cassation, the Council of State (Supreme Court for Administrative Courts) and Supreme Court of Public Accounts. According to the Government, these high courts and their judges are not connected hierarchically to the executive power and have judicial independence. Furthermore, other Board members do not represent the relevant confederation or the public employer but decide on behalf of the whole country. The Committee notes however, that the President of the Republic designates not only the chair, but seven out of eleven members of the board. It also notes the observation of the KESK, indicating that this means that most of the board members are designated by the Government. The Committee notes in this respect that as the Government is also the employer in the public sector, it is therefore a party to the negotiations on which the Board will pronounce itself. ***The Committee therefore once again requests the Government to consider reviewing, in consultation with the social partners, the method of appointment of the Board members so as to more clearly show its independence and impartiality and to win the confidence of the parties.***

[The Government is asked to reply in full to the present comments in 2023.]

Turkmenistan

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1997)

Previous comment

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022, referring to the issues examined by the Committee below and questioning the independence of the trade union movement in the country. ***The Committee requests the Government to provide its comments thereon as well as on the 2018 observations of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations alleging grave violations of civil liberties and of the Convention in practice.***

The Committee notes the Law on Industrialists and Entrepreneurs of 2019 and will examine its conformity with the Convention once its translation becomes available.

Article 3 of the Convention. Right of organizations to organize their administration, without interference by the public authorities. The Committee had previously noted that pursuant to section 27(3) of the Law on Public Associations, insofar as it applies to employers' organizations, public associations must, upon a request from the Ministry of Justice, submit copies of decisions taken by their governing bodies and officers, as well as reports about their operations. A similar provision is contained in section 16(2) of the Law on Trade Unions. The Committee had requested the Government to amend these provisions as they give the authorities powers of control that go beyond those acceptable under the Convention. The Committee ***regrets*** that the Government's reply, while extensive, is limited to general statements regarding the prohibition on the authorities to interfere in the activities of public associations and to indicating merely that such interference is permitted only in cases that are specifically prescribed by the respective laws. The Committee once again recalls that the supervision of workers' and employers' organizations should be limited to the obligation of submitting periodic financial reports or, if there are serious grounds for believing that the actions of an organization are contrary to its rules or the law (which should not infringe the principles of freedom of association), such verification should be limited to exceptional cases, for example, in order to investigate a complaint, or if there have been allegations of embezzlement, and should not take the form of permanent control by the authorities. Both the substance and the procedure of such verifications should always be subject to review by the competent judicial authority affording every guarantee of impartiality and objectivity. ***The Committee therefore urges the Government to take all necessary steps to amend section 16(2) of the Law on Trade Unions and 27(3) of the Law on Public Associations, in so far as it applies to employers' organizations, so as to***

ensure the application of the principles set forth above. The Committee requests the Government to provide information on all progress made in this respect.

Right to strike. In its previous comments, the Committee had noted that the provisions of the Labour Code concerning collective labour disputes did not refer to the right to strike; that according to the Government, collective labour disputes were resolved through mediation or in case of a failure, in courts; and that the parties could not refuse to participate in dispute resolution procedures. The Committee considered in this respect that while strike action was not an end in itself, it was an essential means available to workers and their organizations to protect their interests. The Committee further considered that insofar as compulsory arbitration, including through judicial proceedings, prevents strike action, it was contrary to the right of trade unions to organize freely their activities and could only be justified in the public service for public servants exercising authority in the name of the State or in essential services in the strict sense of the term, that is, services the interruption of which would endanger the life, personal safety or health of the whole or part of the population. The Committee had requested the Government to take the necessary measures, in consultation with the social partners, in order to ensure the application of this principle in law and in practice. The Committee notes with **regret** that the Government did not provide any information on this matter. **The Committee is therefore bound to reiterate its previous request. The Committee expects the Government to provide information on all steps taken or envisaged in this respect.**

Uganda (ratification: 2005)

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2005)

Previous comment

The Committee had previously noted the Government's commitment to implement as a matter of urgency the Committee's recommendation to discuss with the social partners the application and impact of the Public Order Management Act, according to which, organizers of public meetings who fail to comply with the Act's requirements commit an act of disobedience of statutory duty, punishable with imprisonment under the Penal Code. **The Committee notes with regret the Government's indication that there have been no developments in this regard. The Committee reiterates its previous request and urges the Government to provide information in this regard.**

Articles 2 and 3 of the Convention. Legislative matters. The Committee had requested the Government to take measures to amend or repeal the following provisions of the Labour Unions Act of 2006 (LUA):

- Section 18 (process of registration of a labour union shall be completed within 90 days from the date of application). The Committee had requested the Government to take the necessary measures to amend this section to shorten the time frame for registration of a trade union.
- Section 23(1) (interdiction or suspension of union officers by the Registrar). The Committee had requested the Government to take steps to amend section 23(1) of the LUA to ensure that the Registrar may only remove or suspend trade union officers after conclusion of judicial proceedings and only for reasons, such as an internal decision of the trade union, in line with *Article 3* of the Convention.
- Section 31(1) (eligibility condition of being employed in the relevant occupation). The Committee recalls that the measures to amend this section may include introducing flexibility either by admitting as candidates for union office persons who have previously been employed in that occupation, or by exempting from that requirement a reasonable proportion of the officers of an organization.

- Section 33 (excessive regulation by the Registrar of an organization's annual general meeting; contravention subject to sanction under section 23(1)).

The Committee takes note of the Government's indication that it is still in the process of amending the Act and that the Bill which provides for amendment of sections 18, 23(1), 31(1) and repeal of section 33 is pending at the top Policy Management level. **Recalling that the review process of the LUA has been ongoing for several years, the Committee expects that it will be amended without further delay, in consultation with the social partners. The Committee requests the Government to provide information on all developments in this regard, and to provide a copy of the amended LUA when adopted.**

The Committee recalls that it had requested the Government to amend section 29(2) of the Labour Disputes (Arbitration and Settlement) Act of 2006 (LDASA) to ensure that the responsibility for declaring a strike illegal does not lie with the Government, but with an independent body that has the confidence of the parties involved. The Committee had also requested the Government to provide information regarding the harmonization of the list of essential services in the LDASA (Schedule 2) with that in the 2008 Public Service Act (Negotiating, Consultative and Disputes Settlement Machinery). The Committee notes with **concern** the Government's indication that while the LDASA was amended in 2020, section 29(2) and Schedule 2 of the LDASA were not. The Government indicates that it will consider addressing these matters through other policy arrangements. **The Committee urges the Government to take all the necessary measures in consultation with the social partners to amend section 29(2) in line with its previous request and to harmonize the list of essential services in Schedule 2 of the LDASA, irrespective of other policy arrangements that may be adopted. The Committee requests the Government to provide information on any developments in this regard, including on any other policy arrangements adopted, and to provide a copy of the revised LDASA.**

Application of the Convention in practice. The Committee notes the Government's indication regarding the challenges of applying the Convention in the informal sector of the economy, due to the instability of enterprises in this sector and the small number of workers usually employed by each enterprise, as well as the casual nature of work. The Committee recalls that pursuant to *Article 11*, each Member State for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organize. **The Committee requests the Government to indicate measures taken or envisaged in consultation with the social partners in this regard and recalls that it may avail itself of the technical assistance of the Office.**

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1963)

Previous comment

The Committee had requested the Government to provide detailed comments on the allegations of anti-union discrimination practices, in response to the observations made by the International Trade Union Confederation and the National Organization of Trade Unions of Uganda in 2014 and 2012 respectively. **The Committee notes with regret the absence of reply from the Government. It trusts that the Government will show greater cooperation in the future and urges the Government to provide its comments to the referred observations.**

Article 4 of the Convention. Promotion of collective bargaining. The Committee had noted the Government's indication that the Labour Unions Act No. 7 of 2006 (LUA) was under review, and had requested the Government to take the necessary measures to ensure that the revised legislation recognizes the right of trade union federations and confederations to engage in collective bargaining (section 7 of the LUA). The Committee notes the Government's indication that this process is still ongoing, and the Committee's observation on this matter is one of the areas for amendment. **Recalling**

that the review process of the LUA has been ongoing for some years, the Committee expects that it will be amended without delay, following consultations with the social partners, to ensure its conformity with the Convention. The Committee requests the Government to provide information on any developments in this regard.

Compulsory arbitration. The Committee has, for many years, requested the Government to amend sections 5(1) and (3), and 27 of the Labour Disputes (Arbitration and Settlement) Act of 2006 (LDASA) with a view to ensuring that arbitration may only be imposed in the case of disputes in the public service involving public servants engaged in the administration of the State (*Article 6* of the Convention), or in essential services in the strict sense of the term (namely those services whose interruption would endanger the life, personal safety or health of the whole or part of the population), or in the case of acute national crisis. The Committee notes with **concern** the Government's indication that the LDASA was amended in 2020 but that section 5 (1) and (3) and 27 were not amended in the process, despite the Government's previous indication that consultations were held with the social partners to amend these provisions. The Committee notes the Government's indication that it will consider addressing the matter through other policy arrangements. **The Committee urges the Government to, in consultation with the social partners, take all the necessary measures to amend sections 5(1) and (3), and 27 of the LDASA, irrespective of other policy arrangements that may be adopted by the Government, to ensure that arbitration in situations other than those mentioned above can take place only at the request of both parties involved in the dispute and that the applicable legislation is fully in line with the Convention. The Committee requests the Government to provide information on any developments in this regard, including any other policy arrangements adopted.**

Articles 4 and 6. Promotion of collective bargaining for public servants not engaged in the administration of the State. The Committee had requested the Government to provide information on the outcome of the negotiation between the Council, composed of ten Public Service Labour Unions, which concluded a collective bargaining discussion for salary increase for the period of five years, starting from the financial year of 2018–19. **Observing that the Government does not provide information on the outcome of this negotiation, the Committee once again requests the Government to provide it.**

Application of the Convention in practice. The Committee notes the Government's indication with respect to the challenges for implementation and enforcement of the existing legislation on freedom of association in informal enterprises, due to the low number of workers, the casual nature of their work, and the instability of enterprises, which leads to obstacles to unionization. The Committee observes that this situation also results in challenges to collective bargaining. **The Committee requests the Government to provide information on the measures taken to promote collective bargaining for workers in the informal sector and recalls that it may avail itself of the technical assistance of the Office. The Committee also requests the Government to provide detailed information on the number of collective agreements concluded and in force, in all sectors of the economy, and the number of workers covered by these agreements.**

Ukraine

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1956)

Previous comment

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022, denouncing the introduction in Parliament of draft Law No. 6420 on the Legal Regime of Property of All-Union Public Associations (Organizations) of the Former USSR (dated December 2021) and Draft Law No. 6421 on Moratorium on Alienation of Property of All-Union Public

Associations (Organizations) of the Former USSR. The ITUC considers the revival of the two draft pieces of legislation in a time of war to be opportunistic and contrary to the Government's international commitments. The Committee notes the Government's indication that the two draft laws were developed to establish the legal basis for determining the ownership of property which, as of 1991, was in the possession or use of all-union public organizations of the former USSR, with a view to returning such property to state ownership. The Committee notes that the Committee on Freedom of Association has been called upon to examine the issue of trade union property on two occasions, in Case No. 2890 and more recently, in Case No. 3341 where it had noted the creation of a working group to discuss possible ways to regulate the issue and invited the Government to engage in consultations with the trade union organizations to find a mutually agreeable solution (see Report No. 392, October 2020, para. 966). ***Noting the ITUC allegation that the two draft laws were presented unilaterally without meaningful consultations with trade unions, the Committee requests the Government to take necessary measures to review draft Laws Nos 6420 and 6421 in full consultation with the most representative workers' organizations with a view to finding a mutually agreeable solution. The Committee requests the Government to inform it of all developments in this regard.***

The Committee also notes the joint observations of the Federation of Trade Unions of Ukraine (FPU) and the Confederation of Free Trade Unions (KVPU), received on 6 October 2022, alleging that Law No. 2136-IX of 15 March 2022 on Organization of Labour Relations Under Martial Law was adopted without prior consultation with the social partners and that it restricts the exercise of the right to organize. ***While taking account of the exceptional nature of the legislation, the Committee trusts that the Law will be declared null and void once the state of emergency / martial law regime is lifted.***

The Committee further notes that according to the FPU and the KVPU, the following draft laws were introduced in Parliament without prior consultation with the social partners: draft Law on Labour; draft Law No. 2332 of 29 October 2019 on Amendments to Certain Legislative Acts Concerning the Procedure for Determining the Representativeness of Trade Union and Employer Organizations in Social Dialogue Bodies; draft Law No. 2682 of 27 December 2019 on Strikes and Lockouts; draft Law No. 2681 of 27 December 2019 on Amendments to Certain Legislative Acts of Ukraine (on Some Matters of the Trade Unions Activity); and draft Law No. 7025 of 4 February 2022 on Self-Regulatory Organizations. According to the FPU and the KVPU, these laws, if adopted, would violate the Convention by (i) restricting the rights of workers to establish organizations of their choosing and without previous authorization, imposing state control over trade unions, and (ii) restricting the right of trade unions to organize their administration and activities and to formulate their programmes in general, and the right to strike in particular. The Committee notes the above allegations with **concern** and recalls that all States have the obligation to respect fully the commitments undertaken by ratification of ILO Conventions. The Committee notes the Government's indication in reply to the ITUC above-mentioned observations that the Ministry of Economy is ready for a comprehensive dialogue which would facilitate a full understanding of the spirit and provisions of international labour legislation as well as their implementation in Ukraine. The Committee notes the Government's communication received on 8 December 2022 containing comments on the FPU and the KVPU allegations. The Committee will examine the Government's reply at its next session. ***The Committee urges the Government to engage with the social partners in respect of the draft legislation affecting their interests and rights with a view to bringing the legislation into conformity with the Convention prior to any further consideration by Parliament. The Committee recalls that the Government may avail itself of technical assistance from the Office in this respect.***

The Committee notes the extremely difficult situation in the country since 24 February 2022. In the absence of a report from the Government on the application of the Convention, the Committee recalls that it had previously requested the Government:

- to continue taking the necessary steps in order to ensure the right of judges to establish organizations of their own choosing to further and defend the interests of their members and to inform of all progress made in this regard;
- to take the necessary measures to amend section 19 of the Law on the procedure for settlement of collective labour disputes so as to ensure that if the national legislation requires a vote before a strike can be held, account is taken only of the votes cast and the majority is fixed at a reasonable level;
- to clarify which categories of civil servants exercise authority in the name of the State and whether some or all civil servants are prohibited from exercising the right to strike, and to amend section 10(5) of the Law on Civil Service so as to ensure that the right to strike in the public service may be restricted or prohibited only for public servants exercising authority in the name of the State; and
- to provide information on the practical application of section 293 of the Criminal Code, which provides that organized group actions that seriously disturb public order, or significantly disrupt operations of public transport, any enterprise, institution or organization and active participation therein, are punishable by a fine of up to 50 monthly minimum wages or imprisonment for a term of up to six months, in respect of industrial actions.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

United Kingdom of Great Britain and Northern Ireland

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1949)

Previous comment

The Committee notes the observations made by the Trades Union Confederation (TUC), received on 31 August 2022, which refer to the issues examined by the Committee below.

The Committee had previously requested the Government to comment on the allegations relating to police surveillance of trade unions and trade unionists submitted by the TUC in 2018. The Committee notes the Government's indications that the exercise of covert investigatory powers under the Investigatory Powers Act, 2016 (IPA) and the Regulation of Investigatory Powers Act, 2000 (RIPA) are subject to numerous stringent safeguards and robust independent oversight, and are carried out only if they are necessary for specific statutory grounds, proportionate to the outcome sought, and the information required cannot be reasonably obtained through less intrusive means. The Government points out that it would therefore never be necessary and proportionate to use investigatory powers merely to interfere with legitimate trade union activity. The Government adds that the RIPA grants victims of improper exercise of covert investigatory powers recourse to the Investigatory Powers Tribunal (IPT) for redress. The Government further informs that there is an Investigatory Powers Commissioner who exercises independent oversight over investigatory powers and has the mandate to audit, inspect and report the use of such powers by the authorities. The Committee notes the Government's indication that an Undercover Policing Inquiry was established in 2015 to inquire into and report on undercover police operations conducted in England and Wales since 1968 and their effects upon individuals in particular and the public in general. A number of trades unions and trades unions members have been granted core participant status in the Inquiry. ***The Committee expects that the inquiry will be concluded in the very near future and requests the Government to provide information on any conclusions arrived at in relation to the above-mentioned allegations.***

Article 3 of the Convention. Right of workers' organizations to organize their activities and formulate their programmes. In its previous comment, the Committee had requested the Government to provide information on the measures taken to facilitate electronic balloting (e-balloting) for industrial action ballots. The Committee notes both the TUC's and the Government's indications that the review of e-balloting conducted in 2017 resulted in certain recommendations, including pilots of e-balloting in non-statutory areas as a first step. According to the Government, round table consultations on the recommendations were held both with experts and with trade unions. The Government indicates that details will be provided after the finalization of its consideration of the recommendations. ***The Committee trusts that this work will be finalized without further delay and that the Government will provide information thereon in its next report.***

The Committee had also requested the Government to review section 3 of the Trade Union Act, 2016 with the social partners to ensure that the requirement of support by 40 per cent of all workers for strike ballot did not apply to the education and transport sectors. The Committee notes the Government's indication that the Act, including the ballot thresholds, will be reviewed with the social partners in the future. The TUC indicates that the imposition of the ballot threshold of 40 per cent to the two above-mentioned sectors imposes a requirement of 80 per cent voting support if only 50 per cent of the members vote and poses a significant barrier to union members exercising their right to strike. ***The Committee urges the Government to review section 3 of the Trade Union Act with the social partners without further delay in order to ensure that the support of 40 per cent of all workers is not required for a strike ballot in the education and transport services.***

In its previous comment, the Committee had requested the Government to provide information on the practice of notifying the police of the identity of activists; the details of any complaints regarding the handling of this information or its impact on lawful industrial action; and information on the blacklisting of individuals engaged in lawful picketing. The Committee notes the Government's indication that the Trade Union Act, including provisions on picketing requirements, will be reviewed in the future, and the Government will take into consideration the comments of the Committee. The Government indicates that it does not have any information on the blacklisting of individuals engaged in lawful picketing but adds that claims against blacklisting could be pursued before the Employment Tribunal within three months of the commission of the offence, or longer at the discretion of the Tribunal. The Government adds that the usage of personal data is protected by the Data Protection Act, 2018, with breaches of the Act being investigated by the Information Commissioners Office. The Committee takes note of the TUC allegation that additional restrictions are being planned. ***The Committee once again requests the Government to provide information on the application of this notification in practice, including any complaints made in relation to the handling of this information or its impact on lawful industrial action, and any information on the blacklisting of individuals engaged in lawful picketing. It also requests the Government to provide information on the additional restrictions planned, if any.***

The Committee had further requested the Government to review the impact of sections 16–20 of the Trade Union Act with the social partners to ensure that the expansion of the role of the Certification officer does not interfere with the rights of workers' and employers' organizations under *Article 3* of the Convention. The Committee notes the Government's indication that the Certification officer reforms were implemented in April 2022, after engaging with the social partners in June and July 2021, in addition to the 2017 consultations on the levy. The Government indicates that no consultation was needed in relation to the proposed new investigatory powers since these were contained in the Trade Union Act. While noting the Government's indication that the new legislation would bring the powers of the Certification Officer in line with other regulators and provide confidence both to union members and the wider public, the Committee notes the TUC's indication that the changes would render trade unions vulnerable to interference by non-members including hostile employers or campaign groups, particularly during legitimate industrial disputes. The TUC adds that the consultation in 2017 was a

general consultation inviting input from the general public and not a specific review with the social partners. The Committee notes the TUC's concerns that the changes obstruct and hinder trade unions in their core functions, since they grant the Certification Officer undue discretion in exercising the powers while the threshold for the exercise of the powers is extremely low and their scope is uncertain. The changes vest in the Certification Officer the power to act upon a third-party complaint, which, according to the TUC, could create a risk of interference in the functioning of trade unions; and to demand documents with sensitive information which are protected by data protection laws. The TUC further indicates that the changes allow unduly high financial penalties to be imposed for statutory breaches, and that there is no ceiling imposed on the newly introduced levy which requires unions to cover the majority of the costs of the Certification Officer. ***The Committee requests the Government to provide its comments on the TUC observations, as well as detailed information on the reform implemented with regard to the Certification Officer's new investigatory powers, financial penalties that may be imposed, the amount of any penalties that have been imposed since April 2022, and the ceiling on the levy introduced.***

The Committee is raising other matters in a request addressed directly to the Government.

Jersey

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 3 of the Convention. Right of workers' organizations to organize their activities and formulate their programmes. In its previous comments, the Committee had requested the Government to provide information on any developments concerning the review of the Employment Relations Law (ERL) and codes of practice, in particular, the provisions regulating the exercise of the right to strike (right to secondary action and social and economic protests – see section 20(3) of the ERL and Code 2; picketing – Code 2; compulsory arbitration – sections 22 and 24 of the ERL and Code 3; essential services – Code 2; and conditions for protected industrial action and the application by the courts of sections 3 and 20(2) of the ERL and Code 3). The Committee notes the Government's indication that the ERL continues to achieve its purpose in supporting a non-adversarial dispute resolution system having been developed following significant public consultation, and as demonstrated by Jersey's very good industrial relations record. The Government indicates that according to the Jersey Advisory and Conciliation Service (JACS), both workers' organizations and employers continue to find that the ERL and the codes of practice provide an effective framework in a format that is accessible and easily understood, the success of which had been demonstrated by parties actively pursuing early mediation to resolve matters and by the absence of industrial actions. The Government further recalls that following a political decision to focus on the preparation of new legislation to protect against discrimination all efforts were concentrated on this issue. This legislation is now in force and was further complemented in 2018. While the Government is satisfied with the progress made in this respect, it regrets that it has not been possible to undertake a review of the ERL during this period.

The Committee notes the Government's indication that a review of the ERL is expected to be undertaken when resources allow for it, subject to the position of the new Minister for Social Security, appointed in June 2018. The Government assures that this legislative review will take into account the Committee's comments. ***In these circumstances, the Committee reiterates its request and trusts that the Government will soon be able to report progress concerning the review of the ERL and its codes of practice.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. In its previous comments, the Committee had noted that pursuant to sections 77B and 77C of the Employment (Amendment No. 4) (Jersey) Law, 2009, while the Tribunal can issue an order of reinstatement in the post or a similar post, it does not have the power to compensate an employee for financial losses such as arrears of pay for the period between the dismissal and the order for reinstatement. The Committee had invited the Government to pursue dialogue with the social partners in order to ensure that in cases of anti-union dismissals, workers reinstated by order of the judicial authority would be granted full compensation for loss of pay. The Committee notes that the Government states once again that: (i) since the Employment Law came into force in 2005 there have been no Tribunal complaints of anti-union dismissal, therefore no orders for reinstatement resulting from anti-union dismissal have been issued; and (ii) the review of the award-making powers of the Employment and Discrimination Tribunal could be envisaged in the future. The Committee reiterates that in cases of reinstatement following an anti-union dismissal, remedies for loss of wages for the period that elapses between dismissal and the reinstatement, as well as compensation for the prejudice suffered, with a view to ensuring that all of these measures taken together constitute a sufficiently dissuasive sanction, as "adequate protection" under *Article 1(1)* of the Convention. The Committee recalls that sanctions against acts of anti-union discrimination must be to compensate fully, both in financial and in occupational terms, the prejudice suffered (see 2012 General Survey on the fundamental Conventions, paragraph 193). **The Committee therefore requests once again the Government to enter into dialogue with the social partners in order to ensure that in cases of anti-union dismissals, workers reinstated by order of a judicial decision may be granted full compensation for loss of pay. The Committee requests the Government to provide information of any developments in this regard.**

Article 2. Adequate protection against acts of interference. In its previous comments, the Committee had noted that there were no specific provisions protecting against acts of interference in the Employment (Jersey) Law (EL) or the Employment Relation Law (ERL), but that it was the Minister's intention via the ERL to prohibit employers from "buying out" employees' rights in respect of union activities by inducing employees not to join a workers' organization, or to relinquish membership of such an organization. While noting the Government's indications on the focus given for now to the preparation of a new legislation to provide protection against several grounds of discrimination, the Committee notes with **regret** that there have been no further developments to date with respect to the protection against acts of interference. **The Committee therefore requests once again the Government to take, after consulting the social partners, the necessary measures to introduce provisions prohibiting acts of interference by employers or their organizations in the establishment, functioning or administration of workers' organizations and vice versa as well as provisions ensuring rapid procedures and sufficiently dissuasive sanctions against such acts. The Committee requests the Government to provide information of any developments in this regard.**

Article 4. Promotion of collective bargaining. Legislative matters. In its previous comments, the Committee had requested the Government to take the necessary action to amend Code of practice 1 with respect to the recognition of trade unions in order to guarantee the right to collective bargaining when no union represents the majority of employees in a bargaining unit. The Committee notes with **regret** the Government's indication that, to date, there have been no further developments in this respect. **Recalling that the determination of the threshold of representativeness to designate an exclusive agent for the purpose of negotiating collective agreements applicable to all workers in a sector or establishment is compatible with the Convention in so far as the required conditions do not constitute an obstacle to the promotion of free and voluntary collective bargaining in practice, the Committee requests the Government to take, after consulting the social partners, the necessary measures to ensure that if no union reaches the required threshold to be recognized as a bargaining agent, unions should be given the possibility to negotiate, jointly or separately, at least on behalf of their own members. The Committee requests the Government to provide information of any developments in this regard.**

Promotion of collective bargaining in practice. **The Committee requests the Government to provide information on the number of collective agreements concluded and in force in the country, the sectors concerned and the number of workers covered by these agreements.**

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

St. Helena

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Previous comment

Article 4 of the Convention. Legislative measures to promote collective bargaining in the private sector. The Committee in its previous comment observed that the Employment Rights Ordinance does not contain specific provisions regulating collective bargaining and requested the Government to adopt legislative measures to promote collective bargaining in the private sector. The Committee observes that though the Government takes note of this, it does not provide information in this regard. ***The Committee therefore requests the Government once again to take concrete measures to promote collective bargaining in the private sector in accordance with Article 4 of the Convention and to provide information in this respect.***

Articles 4 and 6. Collective bargaining in the public sector. The Committee in its previous comment noted the indication of the Government that the right to collective bargaining of public servants not engaged in the administration of the State was recognized through the establishment of the Employee Representative Committee (ERC). It requested the Government to provide information on the ongoing processes and related outcomes in this regard. The Committee notes the Government's indication that the St Helena Public Service (SHPS) Leadership Team meets the St Helena Public Service Employment Rights Committee (SHPSERC) every quarter to discuss issues related to the Terms and Conditions of public servants in a 'Partnership Forum'(PF) and that the SHPSERC successfully negotiated improvements to the Compassionate Leave and Redundancy policies. The Government adds that negotiations are ongoing to improve other policies relating to the terms and conditions of public service employees, including the review of the disciplinary, grievance, capability, and probation policies. The Committee observes that PF Guidelines indicate that the Government has agreed with the SHPERC on the key areas in which it will negotiate, including terms and conditions of employment relating to all employees within grades A to H. ***The Committee welcomes this information and requests the Government to continue providing details about the processes and outcomes of collective bargaining in the public sector.***

Promotion of collective bargaining in practice. ***The Committee encourages the Government to continue to provide information on the measures taken, in accordance with Article 4 of the Convention, to promote collective bargaining in different sectors of the economy. The Committee also requests the Government to provide statistics on the number of collective agreements concluded and in force, the sectors concerned, and the number of workers covered by these agreements.***

United Republic of Tanzania

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2000)

Previous comment

Articles 2 and 3 of the Convention. Right of workers and employers, without distinction whatsoever, to establish organizations without previous authorization. Right of organizations to organize their activities and to formulate their programmes freely. In its previous comment, the Committee trusted that the Government would bring its legislation into conformity with the Convention and in this respect referred to the following issues:

- the need to amend section 2(1)(iii) of the Employment and Labour Relations Act (No. 6 of 2004) (ELRA) so as to ensure that prison guards enjoy the right to establish and join organizations of their own choosing;
- the need to amend section 2(1)(iv) of the ELRA so as to clearly indicate that only the military members of the national service are excluded from the scope of the Act;
- the need to amend section 76(3)(a) which prohibits picketing in support of a strike or in opposition to a lawful lockout;
- the need to amend section 26(2) of the Public Service (Negotiating Machinery) Act (No. 19 of 2003) to align it with the relevant provisions of the ELRA which also applies to workers in the public service; and
- the need to ensure that any service designated as essential by the Essential Services Committee pursuant to section 77 of the ELRA is based on the strict definition of the term.

The Committee notes the Government's general indication that efforts will be made in consultation with social partners and the technical support of the ILO to study the best possible way to take into consideration the comments of the Committee. Regarding the right of prison guards to establish and join organizations, the Committee notes the Government's indication that following the recent legislative amendments, prison guards are recognized as military officials and are regulated by their own legislation. The Committee considers that the functions exercised by this category of public servants do not justify their exclusion from the rights and guarantees set out in the Convention. ***The Committee requests the Government to provide information on the right of prison guards to establish and join organizations along with copies of the above-mentioned amendments. The Committee further expects that the Government will provide full details on measures taken in consultation with the social partners to bring the legislation into conformity with the Convention on the above-mentioned issues.***

Regarding the practical application of sections 4 and 85 of the ELRA, which prohibit protest action in case of a dispute in respect of which a legal remedy exists, the Committee notes the Government's indication that there is neither restriction nor interference, and that the object of the procedures is to ensure the prevention of harm to the public under article 30 of the Constitution. The Committee considers that while the solution to legal conflicts arising as a result of a difference in the interpretation of a legal text should be left to the competent courts, it expresses **concern** that prohibiting all protest actions in respect of disputes for which a legal remedy exists may unduly interfere with the exercise of trade union rights. ***The Committee requests once again that the Government provide information on the application of the above-mentioned provisions in practice.***

Zanzibar

Articles 2 and 3 of the Convention. The Committee had previously noted that section 2(2) of the Labour Relations Act (No.1 of 2005) (LRA) excluded from its scope judges and all judiciary members; members of special departments; and employees of the House of Representatives and requested the Government to provide relevant pieces of legislation that grant the above-mentioned categories of workers the right to organize. The Committee notes the following pieces of legislation provided by the Government: The Special Departments Service Commission Act, No.6/2007; the Jeshi la Kujenga Uchumi Act, No.6/2003; and the Kikosi Maalum cha Kuzuia Magendo Act, No.1/2003. The Committee observes that the three Acts apply to the members and judges of special departments and to forces that protect the territories of the State, and none of the acts refer to the right to organize. ***The Committee therefore requests once again that the Government ensures that the above-mentioned categories of workers are granted the right to organize and to provide the relevant pieces of legislation in this regard.***

The Committee had previously requested the Government to amend the following provisions of the LRA:

- section 42, so that trade unions have the power to manage their funds without undue restrictions from the legislation;
- section 42(2)(j), to ensure that trade unions do not require the approval of the Registrar on the institution which they may choose to contribute to; and
- section 64(1) and (2), so that the prohibition of the right to strike only extends to public servants exercising authority in the name of the state or to essential services in the strict sense of the term.

The Committee notes the Government's indication that all labour laws are undergoing review. The Committee further takes note of the Government's request for technical and financial support from the Office. ***The Committee expects the Government to take the necessary measures in the near future to amend the above-mentioned provisions, in consultation with the social partners and with the technical assistance of the ILO. The Committee requests the Government to provide information on all developments in this regard.***

The Committee had previously requested the Government to indicate whether the time frame for advance notices was the same for strikes and protest actions. The Committee recalls that in its previous comments it considered that the period of advance notice should not be an additional obstacle to bargaining, with workers in practice waiting for its expiry in order to be able to exercise their right to strike. The Committee notes the Government's indication that while the advance notice period for strikes is different from the one for protest action, efforts will be made in consultation with stakeholders to take into account the issues raised by the Committee in this regard. ***The Committee requests the Government to provide information on all developments in this regard.***

United Republic of Tanzania

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1962)

Previous comment

Scope of the Convention. The Committee, in its previous comments, requested the Government to include members of the prison service and exclude only members of the military service from the scope the Employment and Labour Relations Act (No. 6 of 2004) (ELRA), by amending sections 2(1)(ii) and 2(1)(iv) respectively. The Committee notes the Government's indication that prison guards have been recognized as military officials following an amendment in the law, and they are regulated by their own

legislation. The Committee recalls that civilian personnel in the armed forces enjoy the rights and guarantees set out in the Convention. ***The Committee considers that the functions exercised by this category of workers do not justify their exclusion from the rights and guarantees set out in the Convention, and it trusts that the Government will take the necessary legislative measures, in consultation with social partners, to bring national legislation in conformity with the Convention.***

Article 4 of the Convention. Compulsory arbitration. The Committee notes with **regret** that the Government does not provide information on the measures taken to ensure that compulsory arbitration in the framework of collective bargaining is acceptable only in relation to public servants engaged in the administration of the state, essential services in the strict sense of the term, and acute national crisis. ***It reiterates its previous request for information on the progress made in this regard, particularly by amending sections 17 and 18 of the Public Service (Negotiating Machinery) Act.***

Collective bargaining in practice. The Committee previously requested the Government to provide information and statistics on the collective agreements signed and in force in the country. The Committee notes the Government's indication that between July 2021 and June 2022, 32 collective agreements were lodged between the Tanzania Union of Industrial and Commercial Workers (TUICO) and various companies in diverse sectors (industrial and commerce (16), transportation (1), beverages (2), education (1), commercial (6), agriculture (3), health (1), mining (1) and textiles (1)). The Government adds that there are 3 collective agreements in Tanzania-Zanzibar, covering 398 workers in two sectors. ***The Committee requests the Government to: (i) continue providing information in this respect, including statistics on the total number of collective agreements in force in the country, the sectors concerned, and the number of workers covered; and (ii) provide information on the measures taken to promote collective bargaining in the different sectors of the economy.***

Zanzibar

Article 4 of the Convention. Legislation on collective bargaining. In its previous comment, the Committee requested the Government to take the necessary measures to: (i) amend section 57 of the Labour Relations Act, 2005 (LRA) to remove any ambiguity concerning the meaning of the term "majority" and to clarify that the most representative trade union, even when it does not represent more than 50 per cent of the workers, has the exclusive right to bargain with the employer; and (ii) amend section 54(2)(b) of the LRA to guarantee managerial employees their rights under the Convention, and to indicate the categories of employees excluded under section 54(2)(c). The Committee notes the Government's indication that the relevant provisions in the labour laws would be amended, post consultation with social partners and that it has requested the technical assistance of the Office to review and amend all labour laws. ***The Committee takes due note of this request for technical assistance and trusts that the Government will take the necessary steps to ensure the full compliance of the legislation with the Convention. The Committee requests the Government to provide information on progress made in this regard.***

Uruguay

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1954)

Previous comment

The Committee notes the Government's reply to the joint observations of the International Employers' Organisation, the National Chamber of Commerce and Services of Uruguay and the Chamber of Industries of Uruguay of 2018. The Committee also notes the observations of the Inter-Union Assembly of Workers – Workers' National Convention received on 21 August 2022 mentioning

two incidents in which the police used violence against protesters. The Committee notes the Government's indication, in its reply, that protests were allowed within the boundaries of the law, that the police acted to clear the entrance to the port and bus terminal of Montevideo, which were blocked by protesters, that the workers who were detained were released immediately and that the Ministry of the Interior acknowledged that one police officer had acted excessively. ***The Committee requests the Government to ensure that the intervention of the police in trade union demonstrations is in due proportion to the danger to public order that the authorities are attempting to control.***

Article 3 of the Convention. Workplace occupation and the right of management of the enterprise to enter the workplace in the context of a labour dispute. Recalling that the exercise of the right to strike and the occupation of the premises should respect the right to work of non-strikers, and the right of company management to enter its premises, both the Committee and the Committee on Freedom of Association (Case No. 2699) requested the Government to place a bill regulating workplace occupation before Parliament in full conformity with the Convention and to report on tangible developments in this regard. The Committee notes with **interest** the Government's indication that on 9 July 2020, the Urgent Consideration Law No. 19.889 was promulgated, section 392 of which provides that "the State guarantees the peaceful exercise of the right to strike, the right of non-strikers to access and work in the establishments concerned and the right of the management to enter the premises freely."

Bill on Legal Personality. The Committee notes that, in its report on the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Government indicates that following discussions in a special tripartite committee, it drafted a Bill on the Legal Personality of Industrial Associations, which it introduced to Parliament on 2 August 2021 and which is currently under consideration in the Senate. The Committee refers to the aforementioned Bill in its comment concerning Convention No. 98.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1954)

Previous comment

The Committee notes the joint observations of the International Organisation of Employers (IOE), the Chamber of Commerce and Services of Uruguay (CNCS) and the Chamber of Industries of Uruguay (CIU) received on 31 August 2021 and 31 August 2022 dealing with matters addressed by the Committee in this comment and also notes the Government's reply in this respect. The Committee observes that the IOE, CNCS and CIU indicate that in July 2022, the Government introduced a preliminary Bill on Social Security Reform that would allow the establishment of voluntary contributions to the social security system through collective bargaining and observe that such a measure could be approved by the wage councils, which are tripartite bodies. The Committee notes the Government's indication in this regard that the preliminary Bill allows for the possibility of making voluntary social security contributions only through bipartite collective bargaining, without in any way promoting the involvement of the wage councils in the matter.

The Committee also notes the observations of the Inter-Union Assembly of Workers – Workers' National Convention (PIT-CNT) received on 31 August 2022 relating to issues addressed by the Committee in this comment and reporting acts of anti-union discrimination, including the suspension for a period of 14 days of a shop steward for alleged statements in the press which, in the view of the enterprise, damaged its image. The Committee notes the Government's reply to the observations of the PIT-CNT. ***Observing that, in its reply, the Government does not refer to the alleged suspension of the shop steward, the Committee requests the Government to provide information on the outcome of any complaints filed in this respect.***

Article 4 of the Convention. Promotion of free and voluntary collective bargaining. For a number of years, the Committee, together with the Committee on Freedom of Association (Case No. 2699) and the

Conference Committee on the Application of Standards, has been requesting the Government to revise Act No. 18566 of 2009 (establishing the fundamental rights and principles of the collective bargaining system, hereinafter Act No. 18566) with a view to ensuring the full compliance of the Act with the principles of collective bargaining and the Conventions ratified by Uruguay in this area. In 2015, 2016 and 2017, the Government submitted several proposals for legislative amendments to the social partners without reaching agreement, and in 2019 it introduced a bill to Parliament which partially addressed the Committee's comments and ended up being archived in 2020. The Committee recalls that, while the IOE, CNCS and CIU considered the proposed amendments contained in the Bill to be insufficient, the PIT-CNT was of the understanding that Act No. 18566 did not merit amendment. The Committee recalls that the 2019 Bill proposed to:

- include a final sentence in section 4 of Act No. 18566, requiring trade unions to have legal personality so that they can receive information from companies within the framework of the collective bargaining process, with a view to facilitating the possibility of bringing proceedings for liability in the event of a violation of the duty of confidentiality;
- remove section 10(d) of the Act establishing the competence of the Tripartite Higher Council to define the level of bipartite or tripartite negotiations;
- remove the final part of section 14 of the Act which, in the absence of a trade union represented in the company, confers bargaining power on higher-level trade unions;
- amend section 17(2) of the Act so that, for each agreement, the issue of continuing effect is subject to negotiation; and
- clarify that the decisions of wage councils and collective agreements do not require the authorization, approval or adoption of the executive authorities in order to be recorded and published.

In its latest comments, the Committee noted that these proposed amendments were consistent with the obligation under *Article 4* of the Convention to promote free and voluntary collective bargaining and noted with regret that, despite its reiterated comments, the Bill did not propose amendments or clarifications regarding the competence of the wage councils, which are tripartite bodies, in relation to adjustments made to wages that are above the minimum for the occupational category and working conditions (section 12 of Act No. 18566). The Committee recalled that although the establishment of minimum wages may be subject to decisions by tripartite bodies, *Article 4* of the Convention seeks to promote bipartite negotiation for the setting of working conditions, whereby all collective agreements establishing conditions of employment shall result from an agreement between employers or employers' organizations and workers' organizations. The Committee recalled that mechanisms can be established that would guarantee both the free and voluntary nature of collective bargaining and the effective promotion thereof, while ensuring that the country's existing collective agreements continue to offer a high level of coverage.

The Committee notes the Government's indication that: (i) on 27 October 2020 during a meeting of the Higher Tripartite Council, the executive authorities raised the need to work on the comments of the ILO supervisory bodies in relation to Act No. 18566 and suggested that a special tripartite committee could be set up to assess and consider a new draft amendment to the Act, which was unanimously approved; (ii) between May 2021 and February 2022, various meetings of the special tripartite committee were held and on 3 May 2022, the Government submitted a bill to Parliament, based on the Bill introduced to Parliament in 2019 by the previous Government, which is currently under consideration by the Labour Legislation Commission of the Chamber of Representatives; and (iii) between June and August 2022, representatives of the Ministry of Labour and Social Security and workers' and employers' delegations attended the Labour Legislation Commission to provide their opinion with regard to Bill. The Government indicates that it will continue to work in tripartite bodies to bring about reform of collective bargaining in wage councils that takes into account the comment on

section 12 of Act No.18566 and that, in the meantime, practicable measures are under consideration to ensure that the work of all delegates assigned to the wage councils results in agreements or decisions that expressly enable bipartite negotiation in situations where that is justified.

The Committee notes that, in their observations, the IOE, CNCS and the CIU indicate that although the Bill submitted to Parliament on 3 May 2022 contains a number of developments and while they value the legislative initiative, the Bill does not include an important aspect for employers which concerns the government intervention in the negotiation of issues that relate exclusively to the scope of bipartite negotiation. These organizations indicate that they have proposed adjustments to the text and observe that the current text could be substantially modified during the parliamentary debates. The Committee notes that, according to public statements issued by the PIT-CNT and reflected in documents provided by the Government, the PIT-CNT flatly rejects the Bill as a retrograde step for workers' rights that undermines collective bargaining.

The Committee takes due note of the establishment in 2020 of the special tripartite committee to address the comments of the ILO supervisory bodies in relation to Act No. 18566 and of the tripartite dialogue that has taken place within it. The Committee notes that the Bill which the Government submitted to Parliament on 3 May 2022 proposes the same amendments as the Bill introduced to Parliament in 2019. The Committee notes with **regret** that this Bill does not address an essential element that it has been highlighting for years concerning the amendment of section 12 of the law to ensure the bipartite nature of collective bargaining. ***Trusting that the partial progress contained in the Bill submitted to Parliament on 3 May 2022 will be incorporated in the current legislation as soon as possible, the Committee strongly encourages the Government to continue working in tripartite bodies and to take the necessary further measures to amend section 12 of Act No. 18566 such that, in accordance with the Convention, the law fully guarantees both the free and voluntary nature of collective bargaining and the continued effective promotion thereof, thereby ensuring that the country's existing collective agreements continue to offer a high level of coverage. The Committee requests the Government to provide information on any developments in this regard and recalls that it may continue to rely on the technical assistance of the Office.***

Bill on Legal Personality. The Committee notes the Government's indication that, following discussions in the special tripartite committee, the Government drafted a Bill on the Legal Personality of Industrial Associations, which it introduced to Parliament on 3 August 2021 and which is currently under consideration in the Senate. The Government indicates that the Bill relates to the proposal to amend section 4 of Act No. 18566 and that employers have expressed the view that, while the legal personality requirement is a desirable amendment, the procedure for obtaining legal personality should be swift and simple. The Committee notes that the Bill provides for the establishment of a register in the Ministry of Labour, that registration, which is optional, would result in the recognition of legal personality and that only trade unions with legal personality could receive information from enterprises in the framework of the collective bargaining process.

The Committee notes the indication of the IOE, CNCS and CIU that while they believed that this could constitute a step forward, they did not consider it necessary to establish a special regime such as the one proposed, since the country already has specific legislation whereby not-for-profit organizations can obtain legal personality, to which no objections have been raised. The Committee notes that the PIT-CNT has expressed the view, in public statements, that the fact that the unions are required to have legal personality in order to access the information necessary for the development of sound bargaining in good faith goes beyond what the ILO supervisory bodies have proposed. The Committee notes that the Bill provides that the information contained in the register shall be publicly accessible and recalls in this respect that the confidentiality of the processing of data on trade union membership in context of the registration procedure must be guaranteed, not only because such data relate to the private life of workers, but also because their disclosure could potentially expose workers to reprisals.

The Committee requests the Government to take the necessary steps to ensure that the concerns of workers' and employers' organizations in relation to the Bill are duly addressed in the tripartite social dialogue and the parliamentary discussion. It also requests the Government to ensure that whatever system of legal personality is required of organizations, it does not have the effect of hindering their activities and, consequently, collective bargaining. The Committee further requests the Government to take the necessary steps, in consultation with the social partners, to review the Bill in order to ensure the confidentiality of data relating to trade union membership and expects that if the Bill as submitted to Parliament is adopted, it will be implemented in such a manner as to contribute to maintaining the effective promotion of collective bargaining. The Committee requests the Government to keep it informed of any developments in this respect.

Uzbekistan

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1992)

Previous comment

The Committee notes the observation of the Federation of Trade Unions of Uzbekistan (FPU), received on 27 September 2022, referring to the issues examined below. The Committee further notes that the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), in its observations on the application of Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) received on 31 August 2022, also refers to matters addressed in the present comment and alleges acts of anti-union interference and discrimination, including dismissals, in the agricultural sector. ***The Committee requests the Government to provide its comments thereon.***

Legislative developments. The Committee notes that the Government indicates that the Labour Code has been amended on 28 October 2022, and that the revision will come into force in April 2023. The Committee will examine its conformity with the Convention once a translation is available.

Trade union monopoly. In its previous comments, the Committee expected that the Government would provide information on the measures taken to address the IUF's 2016 allegations that the Government represses independent trade union organizing, controls the FPU and retaliates against activists for monitoring labour relations and practices. The Committee notes that the Government reports that the Law on Trade Unions (LTU), which entered into force on 8 March 2020, provides in section 12 that state bodies and their officials are prohibited from interfering in the activities of trade unions and their associations. It notes, however, that the 2022 observations of the IUF contain similar allegations to those of 2016 concerning repression of independent trade union organizing, control of the FPU and retaliation against activists. The Committee also observes that the Committee on Economic, Social and Cultural Rights of the United Nations, in its concluding observations of 31 March 2022 concerning the application of the UN Covenant on Economic, Social and Cultural Rights, expressed its concern that trade unions are required to obtain approval from the Ministry of Justice for registration, and recommended the elimination of this requirement and the removal of administrative obstacles to the formation of trade unions. ***Recalling that the imposition of a trade union monopoly is inconsistent with the principle of free and voluntary collective bargaining, the Committee requests the Government to take the necessary measures, including legislative, to guarantee the possibility of trade union pluralism, and to provide information on any developments in this regard. Moreover, recalling the responsibility of the Government to ensure that the rights provided for in the Convention are respected both in law and in practice, the Committee requests it to indicate the machinery and sanctions applicable in the event of acts of interference by state bodies or officials, and to provide information on the measures taken to ensure the implementation of section 12 of the LTU in practice.***

Article 4 of the Convention. Promotion of collective bargaining. The Committee had previously requested the Government to amend sections 21(1), 23(1), 31, 35, 36, 48, 49 and 59 of the Labour Code to ensure that only in the absence of trade unions at the enterprise, the branch or the territory, can the authorization to bargain collectively be conferred on representatives elected by workers. The Committee notes the Government's indication that the revised Labour Code, which was drafted in cooperation with the ILO, provides in section 37 that in the absence of trade unions at the appropriate levels of the social partnership, employees shall have the right to establish other associations to represent and protect their interests. ***The Committee requests the Government to provide information on the type of other associations the revised Labour Code refers to and on the application in practice of the above-mentioned provision.***

Collective labour disputes. In its previous comments, the Committee had requested the Government to provide a copy of the recommendations on the organization of activities of commissions on labour disputes which had been adopted in 2015. The Committee notes that the attachment containing the recommendations which is mentioned in the Government's report has not been provided. It also notes that the Government indicates that the revised Labour Code contains a chapter which guarantees the right to collective bargaining. ***The Committee reiterates its request that the Government provide a copy of the recommendations on the organization of activities of commissions on labour disputes of 2015 and hopes that the revised Labour Code will give full application to the principle of free and voluntary collective bargaining enshrined in article 4 of the Convention.***

Collective bargaining in practice. The Committee notes the statistical information provided by the Government, according to which 111,789 legal entities employing 4,547,381 workers concluded collective agreements in 2021. It further notes that the data submitted shows a decrease in the number of collective agreements concluded between 2018 and 2021. The Government explains that this decline is due to structural transformations accompanied by a change in the number of legal entities. The Committee also notes the Government's indication that 105 sectoral agreements were concluded by branch trade unions in 2021, including 66 in the state institutions and public services, energy, oil and gas, and agro-industrial sectors. ***The Committee requests the Government to report on the measures taken or envisaged to promote collective bargaining, and to continue to provide updated information on the number of collective agreements concluded and in force in the country, as well as the sectors concerned and the number of workers covered by these agreements.***

Bolivarian Republic of Venezuela

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1982)

Previous comment

The Committee notes the observations of the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), received on 11 February 2022, and those communicated by the Government in its report. It also notes the observations of the Bolivarian Socialist Confederation of Urban, Rural and Fishery Workers of Venezuela (CBST-CCP), received on 22 April 2022, and those communicated by the Government. The Committee notes the observations of the Independent Trade Union Alliance Confederation of Workers (CTASI), the Confederation of Workers of Venezuela (CTV) and the Federation of University Teachers' Associations of Venezuela (FAPUV), communicated by the Government. The above observations refer to issues examined in this comment. The Committee also notes the observations of National Union of Workers of Venezuela (UNETE), received on 5 September 2022. ***The Committee requests the Government to provide its comments in response to the observations of UNETE.***

Follow-up to the recommendations of the Commission of Inquiry (complaint made under article 26 of the Constitution of the ILO)

The Committee notes the discussions which took place during the 344th, 345th and 346th Sessions of the Governing Body (March, June and October-November 2022) on developments relating to the social dialogue forum (the Forum) to give effect to the recommendations of the Commission of Inquiry regarding the Government of the Republic of Venezuela, as well as the decisions adopted by the Governing Body. The Committee notes that, at its 347th Session (March 2023), the Governing Body will once again consider the progress achieved by the Government to ensure compliance with the recommendations of the Commission of Inquiry and will proceed with its examination of possible measures to meet this objective.

The Committee notes with *interest* the information provided by the Government to the Governing Body on the Forum to give effect to the recommendations of the Commission of Inquiry, in particular that: (i) on 7 March 2022, the inaugural session of the Forum took place virtually, chaired by the Ministry of People's Power for the Social Process of Labour (MPPPST), with the participation of other officials of the Ministry, and the following employers' and workers' organizations: FEDECAMARAS, CBST-CCP, the Venezuelan Federation of Small, Medium and Artisanal Industries (FEDEINDUSTRIA), CTASI, CTV, UNETE, the General Confederation of Labour (CGT) and the Confederation of Autonomous Trade Unions (CODESA); ILO technical assistance was provided during the session to adopt terms of reference for the Forum, including pending issues to be addressed relating to the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), Convention No. 87, and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144); (ii) between 25 and 28 April 2022, the first in-person meeting of the Forum was held, with the technical assistance of the Office, which resulted in the adoption of an action plan consisting of a schedule of activities relating to the application of the above Conventions; (iii) in the follow-up to the Forum, bilateral meetings were held with the social partners from 11 to 21 July 2022; (iv) from 26 to 29 September 2022, another session of the Forum was held, with the technical assistance of the Office, at which the activities carried out were assessed as part of the implementation of the action plan adopted in April, and it was agreed to update the plan; and (v) it is hoped that there will be another session of the Forum in February 2023.

Civil liberties and trade union rights. Climate free from violence, threats, persecution, stigmatization, intimidation or any other form of aggression, in which the social partners are able to exercise their legitimate activities, including participation in social dialogue with full guarantees. In its previous comment, the Committee reiterated the recommendations of the Commission of Inquiry and firmly urged the Government, in dialogue with the organizations concerned through the relevant bipartite or tripartite round tables, to take the necessary measures quickly to ensure implementation of the recommendations in question. The Committee firmly urged the Government to investigate and take appropriate action with respect to the pending allegations of violations of the Convention regarding civil liberties and trade union rights - contained in the Commission of Inquiry's report or subsequently brought before this Committee - in order to ensure a climate free of violence, threats, persecution, stigmatization, intimidation or any other form of aggression in which the social partners can exercise their legitimate activities, including participation in social dialogue with full guarantees. Lastly, the Committee requested the Government to provide detailed information on the follow-up action taken.

With regard to the situation of the trade unionist, Rodney Álvarez, the Committee recalls that it noted with deep concern the serious additional allegations of violation of due process in this case, and urged the Government to implement immediately the recommendations of the Commission of Inquiry in this regard. The Committee notes the Government's indication that on 1 June 2022, the 11th Court of First Instance of the criminal judicial circuit of the Caracas metropolitan area issued the final ruling ordering full freedom of Mr Álvarez, upon request of the Office of the Attorney-General (Attorney-General). The Government also reiterates that Mr Álvarez was sentenced for the common crime of

homicide and not for the exercise of trade union activities. The Committee notes, from the information sent from the Government to the Governing Body (GB.346/INS/12(Rev.1)), that Mr Álvarez requested to be reinstated in his job and to receive the payment of lost wages and other benefits that he stopped receiving from the time when he was taken into detention. In that connection, in Administrative Ruling No. 001 of 17 October 2022 the Labour Inspectorate of Puerto Ordaz ordered the workplace to pay all sums relating to Mr Álvarez's labour rights. It also dismissed the request to reinstate Mr Álvarez in his job, on the grounds that the case had lapsed, as the time limit established in section 34(c) of the Regulations under the Basic Labour and Workers Act (LOTTT regulations) had expired. The Committee notes the observations of several social partners (CTV, CTASI and FAPUV) indicating that Mr Álvarez has not been reinstated in his job and that after 11 years of imprisonment and the declaration of his innocence, he has not received reparation for the damages caused by his imprisonment. The Committee notes that the Constitution of the Bolivarian Republic of Venezuela sets forth that any person may request the State to restore or remedy the legal situation endured by judicial error, unjustified omission or delay (article 49(6)). **While noting the resolution of the criminal case, the Committee recalls the right to appropriate sanction and reparation for the violations to civil liberties, and hence requests the Government to take all the necessary measures to ensure fair reparation for the damages caused to Mr Álvarez, including the corresponding financial compensation, taking into account the injuries suffered, and in accordance with the Constitution.**

The Committee notes the Government's general indication that the allegations and observations submitted by the social partners have been addressed, assessed and referred to the public authorities concerned, in the framework of the cooperation between them. The Government denies that there is a policy of violence, threats, persecution, stigmatization and intimidation or any other form of aggression against workers' and employers' organizations (and their members) and that this has been discussed in various dialogue forums between the MPPPST and the social partners, which are part of the Government's renewed policy of national dialogue in accordance with the Convention and where all social partners without exclusion are granted guarantees. In addition, the Committee notes the Government's indication to the Governing Body that on 23 August 2022, at a meeting of the National Council for Productive Economy (CNEP), led by the President of the Republic, the associations and chambers of the productive sectors headed by the presidents of FEDECAMARAS and FEDEINDUSTRIA were incorporated into the above Council.

The Committee notes that the action plan adopted at the Forum, and its update, includes the following expected outcomes, as follow-up to the decisions of the Governing Body and the recommendations of the Commission of Inquiry:

- (i) the processing of the allegations of stigmatization and discrediting, including the submission to the relevant authorities by the organizations concerned of updated lists containing information identifying cases containing allegations associated with the Government, and the holding of bipartite meetings between the Government and the workers' and employers' organizations to consider and adopt relevant measures, as well as the follow-up to those measures; and
- (ii) the effective handling of allegations of arrests and judicial proceedings or preventive measures substituting deprivation of liberty, allegedly related to the exercise of legitimate trade union activities, including the submission of updated lists (containing information identifying cases) of allegations previously verified by each sector concerned, their respective referral to the Attorney-General or other authorities concerned, and the holding of bipartite meetings to adopt the relevant measures.

With regard to the allegations concerning land by FEDECAMARAS, the Committee recalls that it noted various measures mentioned by the Government, including the establishment of round tables for meetings at the National Land Institute (INTI) to seek solutions to the cases raised by the National

Federation of Stockbreeders of Venezuela (FEDENAGA), and the setting up of a technical committee to discuss matters of interest to FEDENAGA and INTI, as well as the establishment of a list to prioritize cases in this regard also indicated by FEDECAMARAS. The Committee notes the Government's indication regarding the setting up of cooperation with the Ministry of People's Power for Agriculture and Lands and the INTI to address the cases brought to light by FEDECAMARAS. The Committee notes the observations of FEDECAMARAS regarding the list of estates prioritized for land recovery measures by INTI, indicating that meetings have been held with INTI but that nothing has been effectively returned to the legitimate owners, with the exception of progress made by INTI in the process to relocate the "invaders" of two of the estates reported in the above list (Estate 75 and Agropecuaria Boralito, S.A.).

The Committee welcomes the Government's indication regarding the planned establishment of two national Offices of the Attorney-General with specialized competence in the defence of labour rights. ***The Committee requests the Government to provide information on any developments in this respect.***

The Government concludes by reiterating that, contrary to the alleged policy of violence, threats, persecution or other forms of aggression against the social partners, efforts are being made to continue to strengthen spaces for dialogue.

The Committee notes that the CBST-CCP highlights the establishment of dialogue forums between the Government and the social partners, including the Forum and bilateral meetings. The CBST-CCP rejects the observations of the social partners that allege that the State is fomenting a policy of violence, persecution and aggression, and asserts that in reality it has been the guarantor of free trade union activity for all organizations without distinction.

The Committee notes the observations received from the other social partners alleging that the outcome of the dialogue bodies does not make it possible to overcome the previously reported difficulties and delays in the implementation of the action plan to comply with this set of recommendations, as well as additional violations of the Convention, which are listed as follows:

- (i) FEDECAMARAS states that in April 2022, accusations were made against the former president of FEDECAMARAS in a programme broadcast on the State television channel and that as a follow-up, and in line with the action plan, this information was sent to the MPPPST, presenting this complaint to be dealt with in bipartite meetings. It indicates that, on 12 August 2022, a trade union leader was arrested in Bolívar State, the second senior director of the Trade and Industry Chamber of the General Manuel Cedeño Municipality of Bolívar State, and that he was charged for allegedly committing crimes related to the sale of gas. Furthermore, FEDECAMARAS reports that on 29 and 30 August 2022, the deputy of the National Assembly for the State of Yaracuy, Braulio Alvarez, disseminated hateful and intimidating messages against the President of FEDECAMARAS, Carlos Fernández, and of FEDENAGA, Armando Chacín, and other trade union leaders, in the context of the process of returning "invaded" lands. FEDECAMARAS nevertheless recognizes some improvements in the relationship with the Government, emphasizing that meetings were held with respect and cordiality (for example, on 19 July 2022 with the Minister of the MPPPST, on the action plan and other issues, and on 28 July 2022 regarding land cases) and its participation in the CNEP in August 2022. FEDECAMARAS reiterates the need for a formalized and permanent body to seek solutions to the issues related to the complaint and under the coordination of the MPPPST, in coordination with the other public authorities, to identify quick and effective solutions, given that the meetings held do not meet the required formalities, as recalled by this Committee. FEDECAMARAS confirms, with regard to one of the cases of the Commission of Inquiry, that on 24 August 2022, notification was given of the judgment of dismissal of the case against Mr Garmendia (former president of CONINDUSTRIA) and the lifting of the measure prohibiting disposal and encumbrance of the assets owned by this leader. Lastly,

the organization reiterates its concern that, to date, the recommendations of the Commission of Inquiry have not been accepted by the Government.

- (ii) CTV, CTASI and FAPUV indicate that the outcome of the dialogue bodies does not make it possible to overcome the serious violations of human, labour and trade union rights, and significant delays in the implementation of the action plan. The trade union organizations, while acknowledging the sporadic release of some detainees, once again denounce many arbitrary arrests of trade unionists and trade union leaders, some in connection with the exercise of the right to peaceful protest and freedom of expression. They denounce the criminalization and prosecution of activities in defence of labour rights and human rights. They also denounce the arrest and imprisonment by the General Directorate of Military Counterintelligence (CDGCIM), the Bolivarian National Intelligence Service (SEBIN) and the Bolivarian National Police (PNB), without arrest warrants, of the following trade union leaders between July and August 2022: Emilio Negrín, president of the National Federation of Court Workers; Alcides Bracho, trade union leader of Venezuelan teachers; Gabriel Blanco, CTASI; Reynaldo Cortés, CTV trade union leader; and Douglas González, trade union leader of an aluminium enterprise. In addition, they reiterate their previous observations with respect to the detentions of other trade union leaders and trade unionists. The trade union organizations report acts of intimidation and aggression against trade union leaders, pointing in particular to the case of Pablo Zambrano, executive secretary of the Federation of Health Workers (FETRASALUD), who was interrogated by the Forensic, Penal and Criminal Investigation Unit (CICPC) and who had received threats from various groups when he attempted to submit a complaint to the Attorney-General.

The Committee notes with **regret** that the Government only provides the following information concerning the previous observations of the social partners: (i) the case of Eduardo Garmendia (which coincides with the indications of FEDECAMARAS in the present comment); and (ii) the case of Eudis Girot, which, as indicated by CTV, CTASI and FAPUV in their observations, concerns a leader of an oil trade union, detained by DGCIM on 18 November 2020 in Puerto La Cruz, accused of terrorism and other charges, and held in “Rodeo III” prison. In this regard, the trade union leader was acquitted of the offences of disclosure of confidential information (section 134 of the Criminal Code) and illegal possession of a firearm (section 111 of the Organic Act for Disarmament and Control of Arms and Ammunition), but was sentenced for the offence of incitement to hatred (section 235 of the Criminal Code) to three years’ imprisonment, and the preventive measure substituting imprisonment was maintained in this regard. In addition, the Government reports that the process is at the stage of reaching the time limits for the submission of appeals and that, if the sentence becomes final, the competent court will impose alternative measures for serving the sentence in accordance with the Organic Code of Criminal Procedure.

While welcoming the meetings and the various social dialogue sessions held (March, in virtual format, and April and September 2022, and in person with ILO technical assistance), and with the participation of the social partners, as well as the commitments made by the Government in the Governing Body to continue with the dialogue regarding the application of the Convention including the development of a schedule (with tripartite and bipartite activities to be carried out between the second fortnight of November 2022 and February 2023), the Committee notes with **deep regret** the absence of replies and specific information on the acts reported by the social partners in their current and previous observations, as well as the fact that in the dialogue forums (including various tripartite meetings) no tangible solutions have been found and the conditions for dialogue recommended by the Commission of Inquiry have not been respected (no minutes were taken, there was no agenda or schedule, and no independent secretariat and presidency were appointed). The Committee also **deplores** that various employers’ and workers’ organizations have raised new and serious allegations of violations of civil liberties and trade union rights. In this respect, the Committee notes with **deep regret**

the information provided by the Government to the Governing Body regarding some of the new cases raised in the observations of the trade union organizations, and notes that during the Forum in September, as indicated in the report to the Governing Body, deprivation of liberty was confirmed and charges for the crimes of conspiracy and criminal association were handed down for: Emilio Negrín, President of the Federation of Court Workers and participant in the April 2022 Forum, Gabriel Blanco, director of the National Assembly Workers' Union and CTASI, and Reynaldo Cortés, a CTV representative. The Committee notes that such cases, as well as those of other trade union leaders and members, have also been examined in the communication addressed to the Government by the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (document AL VEN 4/2022 of 13 September 2022).

In light of the foregoing, the Committee strongly urges the Government to take the necessary measures, in dialogue with the organizations concerned through formal mechanisms and respecting the recommendations made by the Commission of Inquiry, to ensure the implementation of such recommendations and the agreements adopted in the Forum. In this regard, the Committee once again firmly urges the Government to investigate and take appropriate action, as agreed in the action plan, with respect to the pending allegations of violations of the Convention regarding civil liberties and trade union rights – contained in the Commission of Inquiry's report or subsequently brought before this Committee – in order to ensure a climate free of violence, threats, persecution, stigmatization, intimidation or any other form of aggression in which the social partners can exercise their legitimate activities, including participation in social dialogue with full guarantees. The Committee requests the Government to provide detailed information indicating all specific action carried out, particularly the follow-up action taken.

Articles 2 and 3 of the Convention. Respect for the autonomy of employers' and workers' organizations, particularly in relation to the Government or political parties, and suppression of all interference and favouritism by the state authorities. In its previous comment, the Committee once again referred to the conclusions of the Commission of Inquiry and reiterated the specific recommendations on the need to ensure respect for the independence of employers' and workers' organization, and the elimination of all interference and favouritism by the government authorities. The Committee urged the Government to refer all the pending allegations to the respective dialogue round tables with the organizations concerned – including the allegations of interference and obstacles regarding electoral procedures, and the use of Workers' Production Boards (WPBs) as mechanisms that restrict the exercise of freedom of association – in order to make tangible progress as quickly as possible.

The Committee notes in the action plan adopted in the Forum and its update, the signatory parties indicated that trade union elections are independent; and, in the context of implementing the effects of the decision, in accordance with what was discussed at the meeting of workers' organizations with the National Electoral Council (CNE) (28 September 2022), it was decided to initiate a work plan with the Electoral Authority to provide guidance and support to the trade union organizations in their electoral processes, where requested. The action plan includes, among the expected outcomes in follow-up to the decisions of the ILO Governing Body and to the recommendations of the Commission of Inquiry:

- (i) the effective handling of the allegations concerning registration procedures and trade union election processes, including their publication by the organizations concerned, assessment, determination of relevant measures and information to the relevant organizations by the MPPPST, as well as the continuation of the dialogue on assistance from the CNE to the trade union organizations in their electoral processes, where requested; and
- (ii) the effective handling and follow-up of allegations of interference by WPBs in the independent functioning of employers' and workers' organizations or in relations between them, including the communication to the MPPPST of the allegations by the organizations

concerned, enquiries and determination of measures to ensure the absence of interference and the application of appropriate corrective measures by the MPPPST; notification of the organizations concerned; and consultations regarding the adoption of the Regulations to the Constitutional Act on WPBs.

The Committee notes that the Government once again denies the allegations of interference and lack of respect for the independence of employers' and workers' organizations, and those of favouritism of the authorities towards organizations with alleged ties to it, indicating that it has demonstrated its full commitment to freedom of association and its policy of taking all representative organizations into account. In this regard, the Government emphasizes the various sessions of the Forum that were held.

With regard to the establishment of the WPBs, the Committee notes that the Government reiterates its previous indication to the supervisory bodies, including the Commission of Inquiry, emphasizing that far from excluding and affecting freedom of association, the WPBs promote the organization of the working class and foster its participation in the management of productive activity, and in no case replace the trade unions or are contrary to them, as established by section 17 of the WPB Constitutional Act. The Government adds that the MPPPST has not received any formal complaints of specific cases in which the organization of WPBs in any workplaces had interfered with the smooth functioning of the workplace. The Government also indicates, in response to the observations of FEDECAMARAS and certain trade union organizations, that in the action plan adopted within the framework of the Forum, a mechanism was set up for the receipt of complaints or reports on the negative impact of the WPBs on the functioning of a workplace, and that to date no complaints have been submitted by the organizations concerned in this respect.

The Committee also notes the observations of FEDECAMARAS, CTASI, CTV and FAPUV, warning that, instead of following up on the recommendations of the Commission of Inquiry, the Government continues to promote the formation and operation of the WPBs, reiterating that they are mechanisms that interfere in the independence of the trade union organizations and in the working life of the workers. FEDECAMARAS notes that: (i) 2,555 WPBs have been set up in enterprises; (ii) the President of the Republic mandated the MPPPST to draft a Regulation for the WPBs; (iii) a certification course in labour management was delivered for WPBs in enterprises to, inter alia, strengthen the process of communicating information to the Office of the Deputy Minister for Education and Work for Freedom; and, (iv) on 30 August 2022, an attempt was made to set up a WPB in a manufacturing company in Lara State, but the Union of Workers of the company (SINTRAPROB) refused and no worker wished to participate. Further, CTASI, CTV and FAPUV report that between 5 and 7 February 2022, the third national meeting of the WPBs was held, indicating their high number and the formation of ten of them in 2022.

With regard to registration procedures and trade union election processes, the Committee notes the Government's indication that in follow-up to the action plan, on 24–25 August 2022, two workshops were held with workers' (CBST-CCP, CTASI and CTV) and employers' (FEDECAMARAS and FEDEINDUSTRIA) organizations, respectively, on the procedures and requirements set out in the legislation with respect to the National Registry of Trade Union Organizations (RNOS). The Government indicated to the Governing Body that on 19 October 2022 a meeting was held with FEDECAMARAS and FEDEINDUSTRIA to make progress in defining requirements and procedures for the national registration of those organizations, forming a round table where the proposals presented by the social partners were discussed. The Committee notes that FEDECAMARAS indicates in its observations that on 6 May 2022, the records for 2018 to 2021 were registered in the subordinate registry of the records of annual meetings. FEDECAMARAS also indicates that on 25 August 2022, a workshop was held with the employer organizations (FEDECAMARAS and FEDEINDUSTRIA) on the RNOS. In this workshop, FEDECAMARAS reiterated the need for confidentiality and the preservation of the commercial value of the membership lists, and its view that the regulations on the matter are not applicable to employers' organizations, and raised the possibility of drafting a regulation to establish a registry for information purposes only, and of examining other experiences in Latin America in this area.

Regarding trade union elections, the Government reiterates its previous indication, namely that the CNE carries out support activities only where requested by the trade union organizations and that organizations can conduct their elections with or without the assistance of the CNE, according to the terms of the union statutes and any amendments thereto. The Government affirms its willingness to continue working on this matter in the various dialogue forums in cases where the practice is not aligned with the legislation in force. The Government indicates that, in March 2022, the MPPPST issued a legal opinion on the observations of different trade union organizations with respect to the conduct of the CNE and on whether there was an obligation to come before such an institution to carry out the elections of the trade union executive bodies. The CTASI, in its observations, provides the above legal opinion, which indicates that “...in order to guarantee the legitimacy of the trade union organizations, which, through their independence, shall determine the assistance of the CNE or conduct the elections by their own means, provided that they comply with the democratic guarantees required [sic] for the development of a trade union electoral process”.

In this regard, the Committee notes that, on the one hand, the observations of the CBST-CCP highlight the procedures established to streamline the process, both by the MPPPST and the CNE, and state that they have conducted independent trade union elections, adding that 297 trade unions have requested technical advice and support of the CNE for their electoral processes. On the other hand, the CTASI, CTV and FAPUV emphasize in their observations that there have been no changes in law or practice in government policy relating to the registration of trade union organizations and electoral delays. These organizations report that the participation of the CNE in trade union elections is not optional, as seen in the case of the suspension of the elections of the Bar Association of the state of Carabobo, ordered by the Supreme Court of Justice as that the elections were called without the participation of the CNE (May 2022).

In light of the foregoing, in relation to these two areas of recommendations concerning the independence of the employers’ and workers’ organizations, the Committee notes with **deep regret** that the Government does not provide information on tangible progress in response to the specific allegations raised in the previous observations of several social partners, and that the social partners continue to denounce, in the most recent observations of FEDECAMARAS, CTASI, CTV and FAPUV relating to the conduct of the WPBs, the persistence of interference and obstacles in the electoral and union registration processes. The Committee also notes that in the updated action plan it was agreed that consultations would be held on the adoption of the regulations to the Constitutional Act on the WPBs, with the first meeting scheduled for the end of October 2022, and that the dialogue would continue on the assistance of the CNE to trade union organizations in their electoral processes, beginning on 28 September 2022, and follow-up meetings would be held.

In this light, the Committee once again refers to the conclusions of the Commission of Inquiry and reiterates its specific recommendations concerning the need to ensure respect for the independence of employers’ and workers’ organizations, and to eliminate all interference and favouritism on the part of the government authorities. The Committee urges the Government to take all necessary measures, as promptly as possible, in the framework of the dialogue with the organizations concerned and the agreements adopted in the updated action plan in the Forum, to address all the pending allegations – including the allegations of interference and obstacles regarding electoral procedures and also the use of WPBs as mechanisms that restrict the exercise of freedom of association – in order to make tangible progress in the near future. The Committee requests the Government to provide detailed information on the specific activities carried out and the outcome reached in this respect.

Lastly, the CTASI, CTV and FAPUV allege, in their observations, the formation on 7 May 2021 of the Presidential Council of the Government of the People’s Power of the Working Class, exclusively established by and consisting of Government supporters. The trade union organizations allege that in this Council discussions were held on issues related to the protection of social benefits, pensions and

social welfare, and the presentation of collective bargaining models adapted to the economic war, among other issues. **The Committee requests the Government to provide its comments in this respect.**

Financial management, internal administration and inviolability of trade union premises. The Committee notes the observations of the CTASI, CTV and FAPUV that the State retains and does not transfer trade union contributions despite the repeated request to the Government from various trade union organizations to return them. The organizations point out that this situation has been occurring since September 2021, when the payslips of public sector bodies began to be managed through the electronic platform known as the “sistema patria”. In addition, the trade union organizations allege anti-union acts against premises and property of the National Single Trade Union (SUNEP-INPARQUES). **The Committee requests the Government to provide its comments in this respect.**

Articles 2 and 3. Legislative issues. The Committee recalls that it has been asking the Government for several years to take the necessary steps, in consultation with the most representative workers’ and employers’ organizations, to revise various provisions of the Basic Labour Act (LOTTT), in particular sections 367, 368, 387, 388, 395, 402, 403, 410, 484 and 494. In its previous comment, the Committee also urged the Government, in the context of the dialogue round tables, to submit to tripartite consultation without further delay the revision of the laws and standards, such as the LOTTT, which raise problems of compatibility with the Convention in the light of the conclusions of the Commission of Inquiry (such as those regarding trade union registration, “electoral abeyance” or the WPBs) and the comments of the other ILO supervisory bodies. The Committee also asked the Government, in view of the social partners’ allegations, to include in the above-mentioned tripartite dialogue the discussion of the impact on the exercise of freedom of association of the Constitutional Act against hatred and promoting peaceful co-existence and tolerance, and also of any measures needed to ensure that the application of this Act cannot restrict or suppress the exercise of freedom of association. The Committee also recalls that the Commission of Inquiry recommended the submission to tripartite consultation of the revision of the laws and standards that give effect to the Convention, such as the LOTTT, which raise problems of compatibility with the Convention in the light of the conclusions of the Commission of Inquiry and the comments of the ILO supervisory bodies.

The Committee notes the Government’s indication that the Constitutional Act against hatred and promoting peaceful co-existence and tolerance contributes to and creates the conditions for promoting and guaranteeing the recognition of diversity, tolerance and respect, as well as preventing and eradicating all forms of hate, harassment, discrimination and violence. The Government states that the Act does not undermine the exercise of freedom of association, but rather contributes to it. The Committee notes with **deep concern** that the Government has not responded to the observations of the CTV, CTASI and FAPUV warning of the use of the Constitutional Act against hatred and promoting peaceful co-existence and tolerance, and also of accusations of terrorism, as a pretext for criminalizing trade union activity, carrying out arbitrary detentions of trade union leaders and sentencing them to imprisonment for exercising their freedom of expression. The Committee **regrets** that the Government does not provide information regarding the submission to tripartite consultation of the Act’s impact on the exercise of freedom of association.

The Committee reiterates the recommendations of the Commission of Inquiry relating to legislative issues and urges the Government, in the context of institutionalized social dialogue, to submit to tripartite consultation without further delay the revision of the laws and standards, such as the LOTTT, which raise problems of compatibility with the Convention in light of the conclusions of the Commission of Inquiry (such as those regarding trade union registration, “electoral abeyance” or the WPBs) and the comments of the other ILO supervisory bodies. The Committee once again requests the Government, in view of the social partners’ allegations, to include in the above-mentioned tripartite dialogue the discussion of the impact on the exercise of freedom of association of the Constitutional Act against hatred and promoting peaceful co-existence and tolerance, and of any measures needed

to ensure that the application of this Act cannot restrict or suppress the exercise of freedom of association. The Committee requests the Government to inform it of any developments in this respect.

The Committee welcomes the information provided by the Government to the Governing Body reiterating its commitment to engage in consultations with the social partners on bills, or their respective reforms, initiated by the National Assembly relating to international labour standards. In this respect, the Government indicates that on 11 October 2022 public consultations were held with the social partners on the Domestic Workers Act in which FEDECAMARAS, FEDEINDUSTRIA, the CBST-CCT, CTASI, CTV and CGT participated. The Government indicates that the same process will be followed for the Act on Workers with Disabilities.

The Committee notes with ***deep concern***, however, that: (i) the Government does not provide specific replies to the multiple serious allegations made in the Committee's previous comment; (ii) as highlighted by the observations of a number of social partners, the dialogue held so far still does not meet the necessary conditions to be effective, nor has it yielded concrete solutions to the pending issues, and thus, regrettably, no significant further progress can be observed in the application of the recommendations of the Commission of Inquiry; and (iii) allegations of serious violations of the Convention continue to be made, referring to the persistence of systemic patterns or problems to which attention was drawn by the Commission of Inquiry.

The Committee notes that the Government once again refers to its request for ILO assistance in order to determine the representativeness of employers' and workers' organizations, considering that this will be fundamental for determining representativeness according to objective verifiable criteria which fully respect freedom of association. The Government indicates that, during the above-mentioned workshops on the RNOS, the social partners were reminded of the importance of such a register in determining the representativeness of social organizations. In this respect, the Committee reiterates that since the recommendations are interrelated and need to be considered together, they should be implemented in a holistic manner and in a climate in which the social partners can exercise their legitimate activities, including participation in social dialogue with full guarantees, and with full respect for the independence of employers' and workers' organizations. ***The Committee once again recommends that ILO technical assistance should be defined on a tripartite basis in the context of institutionalized dialogue and in light of these considerations.***

The Committee firmly urges the Government to take the necessary steps, with ILO technical assistance, through institutionalized dialogue and in the manner indicated in the Commission of Inquiry's report, to ensure that the recommendations are fully implemented, so that tangible improvements can be noted in the near future, including those agreed upon by the parties in the updated action plan adopted by the Forum. The Committee also reiterates that it is vital that the issues raised above receive the full and ongoing attention of the ILO and its supervisory system so that firm and effective measures are adopted to ensure full observance of the Convention in law and practice.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1968)

[Previous comment](#)

The Committee notes the observations of the Independent Trade Union Alliance Confederation of Workers (CTASI), the Confederation of Workers of Venezuela (CTV), and the Federation of University Teachers' Associations of Venezuela (FAPUV), sent by the Government. The Committee also notes the observations of the United Federation of Workers of Venezuela (CUTV), received on 1 September 2022, and the observations of the Federation of Higher Education Workers of Venezuela (FETRAESUV), FAPUV, the National Federation of Administrative Professionals and Technicians of the Universities of Venezuela (FENASIPRUV), the National Federation of Labour Unions of Higher Education of Venezuela

(FENASOESV), and the Unions of Non-federated University Workers, received on 7 and 19 July 2021. The Committee notes the observations of FAPUV, received on 8 February 2019 and the Bolivarian Socialist Confederation of Men and Women Workers in Urban and Rural Areas and Fishing of Venezuela (CBST-CCP), received on 5 December 2018. The Committee also noted in its previous comment the observations of CTASI, received on 29 August 2018, together with those of the Confederation of Autonomous Trade Unions (CODESA), the CTV, the General Confederation of Labour (CGT) and the National Union of Workers of Venezuela (UNETE), received on 26 September 2018. The observations refer to issues examined in this comment.

The Committee also notes the observations of UNETE, received on 5 September 2022, alleging obstacles in law and practice to the exercise of free and voluntary collective bargaining, including the elimination of and failure to pay benefits agreed in collective agreements through measures adopted unilaterally by the Government, mainly affecting the public sector (education). ***The Committee requests the Government to provide its comments in respect of the observations of UNETE.***

The Committee recalls having suspended the examination of the application of Convention No. 98 until the Commission of Inquiry, established to examine the complaint submitted in 2016 under article 26 of the ILO Constitution, and alleging non-observance by the Bolivarian Republic of Venezuela of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), had completed its mission. The suspension of the above examination is also in light of the substantial links between the issues that the Committee has been examining under Convention No. 98 and the application of Convention No. 87 by the Bolivarian Republic of Venezuela.

The Committee recalls that, under its examination of the application of Convention No. 87, it noted with interest the information provided by the Government to the Governing Body concerning the holding of a social dialogue forum and the adoption of an action plan between the Government and various social actors to give effect to the recommendations of the Commission of Inquiry.

Articles 1 and 2 of the Convention. Protection against acts of anti-union discrimination and interference. The Committee previously noted with concern the allegations made by various trade union organizations concerning many union leaders or members who have been dismissed or are being dismissed in various sectors, and relating to other damaging measures, and requested the Government to: (i) send information in this respect; and (ii) initiate a tripartite dialogue with the most representative workers' and employers' organizations concerning the practical effectiveness of the legal protection against acts of anti-union discrimination and to supply information on its outcome. The Committee notes the Government's information indicating that justified dismissal may be authorized through administrative procedures and that there is broad protection against acts of discrimination and interference. The Government indicates that from 2019 to 2022, 38 actions alleging anti-union practices were brought before the competent authorities. The Committee notes with ***regret*** that the Government has not provided specific information in response to the observations presented by the trade union organizations. ***The Committee urges the Government to provide information on the cases presented, including detailed information on the number of investigations conducted, their duration, the penalties and reparation measures applied. The Committee also urges the Government to take the necessary measures to engage in a tripartite dialogue, including in the social dialogue forum and other forums, on the effectiveness in practice of the legal protection against acts of anti-union discrimination and to supply specific information on the results.***

Article 4. Free and voluntary negotiation. The Committee recalls that for many years it has been requesting the Government to: (i) amend the requirement for the presence of a labour official during collective bargaining, under section 449 of the Basic Act on labour and men and women workers (LOTTT) in order to ensure conformity with the Convention; and (ii) submit to tripartite dialogue the issue of the

application in practice of sections 450 and 451 of the LOTT (regarding, respectively, the requirement that the labour inspector shall verify conformity of the collective agreement with the applicable public order regulations, with a view to granting approval of the agreement; and the possibility for the labour inspector to make observations to the parties, which must be complied with in the following 15 days). In this respect, the Committee notes the Government's indication that the officials who are present at the negotiations act only as mediators, and that in some cases collective negotiations have taken place without the presence of a labour official and that the agreements are subsequently submitted to the labour inspectorate for verification and approval – which is not carried out at the discretion of the Ministry of People's Power for the Social Process of Labour (MPPST). The Committee recalls that the above provisions can amount to interference in the negotiations between the parties and is contrary to the principles of free and voluntary negotiation and the autonomy of the parties. Therefore, the Committee recalls, with regard to sections 450 and 451, that they would only be compatible with the Convention on condition that refusal of approval is restricted to cases in which the collective agreement contains flaws regarding its form or does not comply with the minimum standards laid down by the labour legislation. ***The Committee requests the Government to provide information regarding the number of agreements that have been refused and the reasons given by the authorities. The Committee requests the Government to take the necessary measures, in consultation with the social partners, to make the corresponding amendments to section 449 of the LOTT to bring it into full conformity with the Convention. The Committee also once again requests the Government to conduct a tripartite dialogue on the question of the application in practice of sections 450 and 451 of the LOTT with a view to finding solutions to the issues raised. The Committee requests the Government to provide information on any developments in this respect.***

Compulsory arbitration. The Committee noted that the legislation provides for official arbitration in section 465 of the LOTT, with regard to bargaining by branch of activity where conciliation is not possible, unless the participating trade union organizations state their intention to exercise the right to strike. In addition, the arbitration board for the settlement of the dispute shall be composed of one representative each of the employer, the workers and the Government (section 493), which, according to the Government, ensures the full confidence of the parties. In this respect, the Committee requested the Government, in consultation with the most representative workers' and employers' organizations, to take the necessary steps to draw up an official text to abolish arbitration on the initiative of the authorities – except in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential services in the strict sense of the term and acute national crises – and to ensure that the composition of the arbitration board enjoys the confidence of the parties. The Committee notes with **concern** that the Government only refers to information previously sent and has not provided information relating to the measures taken to abolish compulsory arbitration in the legislation. ***The Committee urges the Government to adopt the necessary measures, in consultation with the social partners, to eliminate the use of compulsory arbitration, except in the cases laid out and permitted by the Convention. The Committee requests the Government to provide information on any developments in this respect.***

Collective bargaining in good faith. Public sector. Public servants not engaged in the administration of the State. The Committee notes the observations of the CTASI, CTV, FAPUV, FENASIPRUV, FETRAESUV and FENASOESV which denounce that the public administration refuses to negotiate with all the trade union organizations (including in the education and health sectors), favouring only those organizations allied with the Government. The trade union organizations indicate that, in the education sector, the Government did not allow the participation of FAPUV, FENASIPRUV, FETRAESUV and FENASOESV, which represent more than 90 per cent of the university workers, in the negotiation of the fourth collective agreement (IV CCU), favouring only the participation of the Federation of University Workers of Venezuela (FTUV). They also allege that wages were not subject to negotiation, as the Government has been imposing wages since 2018, through memorandum No. 2792 on guidelines to be implemented in

collective labour negotiations (11 October 2018). In this regard, they indicate that pursuant to the memorandum, the commission for the monitoring and follow-up of collective bargaining agreements was established, aimed at evaluating, monitoring and supporting the negotiation processes of collective labour agreements, as well as the implementation of those that have been signed, and at protecting and guaranteeing the payment and streamlining of labour benefits in both the public and private sectors. The memorandum sets out minimum wage as the wage scale baseline and lays down the requirement to review any previous collective bargaining agreements in which a wage higher than the minimum has been agreed as a baseline. The CTASI, CTV, FAPUV and CUTV also allege that as of March 2022, when a document was issued by the National Budget Office (ONAPRE) (Directive: process of adjustment of the remuneration system of the public administration, collective bargaining agreements, special tables and strategic enterprises, of 22 March 2022), several public protests have been held, as the above measure unilaterally eliminates the progressive labour rights of public administration workers, altering the wage scales and the formula for the calculation of socioeconomic benefits. The trade union organizations indicate that they have filed judicial appeals requesting the repeal or nullification of this measure, but that their actions were dismissed without a substantive examination. The Committee notes the trade union organizations' indication that they were notified of this measure through social networks and that, although it has not been recognized by the courts, the document is used by the employing public authorities to refuse to pay the wages previously agreed in collective agreements. The Committee notes the information provided by the Government in this respect in its report on the application of Convention No. 87, indicating that the MPPPST has taken various measures: (i) the development of a Memorandum of Internal Guidelines (7 June 2021) for the approval of the national labour policy on the discussion and signing of the collective labour agreements, in a context of freedom of association, and with no further restrictions than those established in the national legal system; and (ii) the issuance of the legal opinion of the MPPPST at the request of the CTASI regarding internal memorandum No. 2792. The Committee notes that the Government has not provided copies of the above-mentioned documents. **Noting that the allegations made by the trade union organizations refer to serious violations of the principle of collective bargaining in good faith - through the non-recognition of the organizations for the purposes of collective bargaining, unilateral amendments and non-compliance with negotiated commitments, the Committee requests the Government to provide its comments in this respect and to provide copies of the above-mentioned documents.**

Application of the Convention in practice. The Committee notes that the trade union organizations refer to obstacles to collective bargaining deriving from the registration procedures and trade union electoral processes that were examined in depth in the framework of the examination by the Commission of Inquiry. In this respect, the Committee refers to its comments on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). The Committee notes the Government's indication of the general manner in which collective agreements were negotiated in the private and public sector, and provides ten examples. **The Committee requests the Government to provide information on the number of collective agreements, signed and in force, negotiated by level and sector, specifying the number of workers covered by collective bargaining.**

Regarding previous allegations by various trade union organizations on non-compliance with collective agreements in force, excessive delays attributable to the authorities in collective bargaining processes, and cases of negotiations with minority or government-backed unions, the Committee notes the Government's indication that it has been constantly reviewing the contractual benefits of public administration workers, approving increases in wage scales, and has signed certificates of agreements with workers' and employers' representatives, guaranteeing compliance with the agreements concluded. The Committee also notes the Government's information with respect to the holding of the social dialogue forum. **The Committee requests the Government to provide its detailed comments relating to the above allegations of the workers' organizations and to indicate the specific measures taken to address those allegations in the context of social dialogue.**

Yemen

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1976)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee had previously requested the Government to provide comments on the 2012 observations made by the International Trade Union Confederation (ITUC) alleging that striking teachers were dismissed, striking sanitation workers were injured, and that the offices of the Yemeni Journalists' Syndicate were attacked. **Noting with regret that the Government provides no reply to these observations, the Committee reiterates its previous request.**

The Law on Trade Unions (2002)

Articles 2 and 5 of the Convention The Committee had previously requested the Government to indicate whether employees of high-level public authorities and Cabinets of Ministers, excluded by virtue of its section 4 from the Law on Trade Unions (LTU) enjoy the right to establish and join trade unions. **While taking due note of the Government's indication that since 2011 union committees have been established in all ministerial offices, the Committee requests the Government to clarify if senior public officials also have the right to establish and join their own organizations.**

The Committee had also requested the Government to take the necessary measures to amend sections 2, 20 and 21 of the LTU so as to repeal specific reference to the General Federation of Trade Unions of Yemen (GFTUY) and thereby to allow workers and their organizations to establish and join the federation of their own choosing. The Committee notes the Government's reiteration that it imposes no restrictions on trade union activity and that there are many unions representing workers' interests that do not operate within the framework of the GFTUY (for example, Trade Union of Doctors, Trade Union of Pharmacists, Trade Union of Engineers, and Lawyers' Trade Union). **Noting that the specific reference to the GFTUY remains in the legislation, and that it could result in making it impossible to establish a second federation to represent workers' interests, the Committee once again requests that the Government take necessary measures to amend the LTU so as to delete this specific reference.**

Article 3. The Committee had previously requested the Government to clarify whether section 40(b) of the LTU required an authorization from the higher level trade union for a strike to be organized, and if this was the case, to take the necessary measures to amend the legislation to bring it into conformity with the Convention. In this regard, the Committee notes the Government's indication that by virtue of section 40(b) of the LTU there is a requirement to coordinate with the higher union body to organize a partial or general strike and that the Committee's previous comment on this legislative issue is being considered for the amendment of the Act. **The Committee trusts that the Government will take the necessary measures to amend the LTU so as to ensure the right of workers' organizations to organize their activities and formulate their programmes. The Committee requests the Government to provide information on any development in this regard.**

The draft Labour Code. The Committee recalls that in its previous comments it had expressed the hope that the draft Labour Code would be adopted in the near future and that the Government would take into account the Committee's comments to further amend or revise some of the provisions in the draft. The Committee notes the Government's indication that due to the armed conflict affecting the country since 2011 it has been unable to complete the amendments of the labour legislation. The Committee further notes the Government's indication that the draft Labour Code is not applicable to domestic workers, members of the judiciary, and diplomatic and consular staff, but that their rights are guaranteed by law. **Recalling that the only authorized exceptions from the scope of application of the Convention are members of the police and the armed forces, the Committee requests the Government to indicate all legislative provisions that afford domestic workers, members of the judiciary, and diplomatic and consular staff, the right to establish and join workers' organizations of their own choosing and without previous authorization.**

The Committee further notes the Government's indication that the draft Labour Code contains no provisions denying the right of workers' organizations to affiliate with international labour organizations. The Committee recalls that it had also requested the Government to:-revise section 173(2) of the draft Labour

Code so as to ensure that minors between the ages of 16 and 18 years may join trade unions without parental authorization;-provide a list of essential services referred to in section 219(3) of the draft Code, which empowers the Minister to submit disputes to compulsory arbitration, which will be issued by the Council of Ministers once the Labour Code is promulgated;-amend section 211 of the draft Labour Code which provides that strike notice must include an indication of the duration of a strike to ensure that a trade union can call a strike for an indeterminate period of time.

While acknowledging the complexity of the situation prevailing on the ground due to the presence of armed groups and armed conflict in the country, the Committee trusts that the current legislative reform will bring the national legislation into full conformity with the Convention and requests the Government to indicate any developments in this regard.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1969)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 2 and 3 of the Convention. Protection against anti-union interference. The Committee recalls that, for a number of years, it has been requesting the Government to ensure that effective and sufficiently dissuasive sanctions that guarantee the protection of workers' organizations against acts of interference by employers or their organizations in trade union activities are expressly provided for in the national legislation. The Committee notes that the Government indicates once again that protection against interference for trade union activities is provided under the Labour Code and that it will seek to provide further legal protection when amending the Act on Trade Unions (ATU) in accordance with the Convention. ***The Committee once again requests the Government to indicate the progress made in this respect, and to provide copies of the amended legislative texts aimed at ensuring full respect for the rights enshrined in the Convention, as soon as they have been adopted.***

Article 4. Refusal to register a collective agreement on the basis of consideration of "economic interests of the country". The Committee recalls that it had previously requested the Government to take the necessary measures to amend sections 32(6) and 34(2) of the Labour Code so as to ensure that refusal to register a collective agreement is only possible due to a procedural flaw or because it does not conform to the minimum standards laid down by the labour legislation, and not on the basis of consideration of "the economic interests of the country". While the Committee had previously noted that the Government had adopted the Committee's proposal with regard to the amendment of the abovementioned section of the Labour Code, the Committee notes the Government's new indication that it will study the Committee's views in this respect. ***The Committee requests once again the Government to take the necessary measures to bring sections 32(6) and 34(2) of the Labour Code into conformity with the Convention.***

Articles 4 and 6. Right to collective bargaining of public servants not engaged in the administration of the State. ***The Committee once again requests the Government to indicate the legal provisions which guarantee the right to collective bargaining of public servants not engaged in the administration of the State.***

While acknowledging the complexity of the situation prevailing on the ground due to the presence of armed groups and armed conflict in the country, the Committee trusts that the Government will make all efforts to bring its law and practice into conformity with the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Zambia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1996)

Previous comment

Articles 2 and 3 of the Convention. Revision of the Industrial and Labour Relations Act. In its previous comment, the Committee had expressed regret that the last review of the Industrial and Labour Relations Act (ILRA) (Act No. 19 of 22 December 2017) failed to address the substantive issues raised by the Committee with regard to sections 2(e), 5(b), 7(3), 9(3), 18(1)(b), 21(5) and (6), 43(1)(a), 78(4), and 107, which pertain to the right of workers, without distinction whatsoever, to establish and join organizations, the right of organizations of workers and employers to elect their representatives, and the right of workers' organizations to freely organize their activities and to formulate their programmes. The Committee notes the Government's indication that the ILRA assists in maintaining industrial harmony and stability of the labour market and that social partners are not dismayed by the provisions identified as problematic by the Committee. The Committee notes with **deep concern** that no consideration is being given to amending the ILRA by the Government. **Recalling that it is the responsibility of the Government to ensure the application of the international labour Convention concerning freedom of association which has been freely ratified, the Committee urges the Government to take all necessary measures to amend the above-mentioned provisions and to inform it of all steps taken in this respect.**

The Committee had previously requested the Government to provide information with regard to the closing of the procedure for the recognition of the Zambia Union of Financial Institutions and Allied Workers (ZUFIAW) by the Zambia Revenue Authority (ZRA) and to indicate whether workers of the ZRA can establish or join unions of their own choosing without prior authorization. The Committee notes the Government's indication that the ZRA is not a financial institution nor is it an allied financial institution. Thus, in line with section 5(b) of the ILRA, which limits trade union membership to workers in the same occupation or branch of activity, workers of the ZRA are not eligible to join the ZUFIAW. While noting the Government's indication that out of 2243 ZRA employees, 1953 are members of the Zambia Revenue Authority Worker Union, the Committee recalls that conditions such as those set by section 5(b) of the ILRA may be applied only to first-level organizations, a category to which ZUFIAW does not belong. **The Committee therefore emphasizes the need to amend the ILRA without further delay so as to ensure the right of workers to establish and join organizations of their own choosing in law and in practice.**

[The Government is asked to reply in full to the present comments in 2023.]

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1996)

Previous comment

Legislative developments. The Committee notes that the Government: (i) acknowledges that the last review of the Industrial Labour Relations Act (ILRA) that took place in 2017 did not address the substantive issues raised by the Committee in its previous comments; and (ii) informs of the decision of the Tripartite Consultative Labour Council (TCLC) to proceed with a comprehensive review of the Act, so as to bring it in conformity with the Convention.

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. In its previous comments, the Committee requested the Government to take measures to shorten the maximum period (one year) within which a court should consider the disputes between an employer and an employee, as well as the matters affecting trade unions and collective bargaining rights and

issue its ruling (section 85(3)(b)(ii) of the ILRA). The Committee notes the Government's indication that when a matter is not concluded within a year, the presiding judge loses jurisdiction to handle the matter and the latter must be reallocated to another judge who then hears it *de novo*, passing the ruling much later than the intended one-year mark. In those circumstances, the Government believes that amending section 85(3)(b)(ii) to shorten the maximum period would further disadvantage the complainant. The Committee takes note that the Committee on Legal Affairs, Human Rights and Governance has made recommendations to alleviate this issue, notably through a proviso stating that a matter should be disposed of within twelve months, following the expiration of the statutory period of one year. The Committee also notes that further methods to address the congestion and delays in the justice system concerning labour matters are being considered by the Government, such as the employment of more judges, the increased number of courtrooms, and broader scope of jurisdiction from subordinate courts. The Committee takes due note of the statement of the Government concerning section 85(3)(b)(ii) of the ILRA and the actions envisaged to address the congestion of the labour justice system. ***The Committee requests the Government to take all the necessary measures, including of a legislative nature in the context of the review of the ILRA, to ensure that anti-union discrimination cases are dealt with through effective and expeditious legal proceedings. The Committee requests the Government to provide information in this respect and recalls that it can avail itself of the technical assistance of the Office.***

Article 4. Free and voluntary collective bargaining. Compulsory arbitration. The Committee requested the Government to take the necessary measures to amend section 78(1)(a) and (c) and section 78(4) of the ILRA, which allow, in certain cases, either party to refer the dispute to a court or arbitration. The Committee notes the Government's indication that it has not encountered any challenges in the administration of collective dispute resolution arising from provision 78 of the ILRA, as it sits currently but that in light of the decision of the TCLC to amend the Act, the proposed amendment of section 78 of the Act may be a matter for consideration. The Committee recalls that, in accordance with the principle of voluntary negotiation of collective agreements, arbitration imposed by legislation, or at the request of just one party is only acceptable in certain specific circumstances: namely: (i) in essential services in the strict sense of the term, that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population; (ii) in the case of disputes in the public service involving public servants engaged in the administration of the State; (iii) when, after protracted and fruitless negotiations, it becomes obvious that the deadlock will not be broken without some initiative by the authorities; or (iv) in the event of an acute crisis (2012 General Survey on the fundamental Conventions, paragraph 247).

The Committee trusts that as a result of the comprehensive review of the ILRA, the above provisions will be amended so as to ensure that arbitration in situations other than those mentioned above can take place only at the request of both parties involved in the dispute. The Committee requests the Government to provide information in this respect.

Article 4. Collective bargaining in practice. The Committee notes that the Government informs that there are 197 collective agreements in force in the country which cover 490,159 workers. ***The Committee invites the Government to inform on the measures taken to promote collective bargaining and to continue providing information on the collective agreements concluded and in force, the sectors concerned, and the number of workers covered.***

Zimbabwe

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2003)

Previous comment

Follow-up to the recommendations of the Commission of Inquiry appointed under article 26 of the Constitution of the ILO

The Committee notes the observations submitted by the Zimbabwe Congress of Trade Unions (ZCTU) and by the International Trade Union Confederation (ITUC), both received on 1 September 2022, which refer to the issues addressed by the Committee below.

The Committee notes the report of the Direct Contacts Mission (DCM), which visited the country in April 2022 following a request by the Conference Committee on the Application of Standards at its 108th Session (June 2019).

Civil liberties and trade union rights. In its previous comment, the Committee had requested the Government to provide information on all progress made with regard to the case against the ZCTU President and General Secretary arrested in 2019; the case of Secretary for Gender of the Amalgamated Rural Teachers Union (ARTUZ), alleged to have been arrested and tortured; alleged acts of violence against ARTUZ leaders following protests in 2020; as well as the repression against workers' protests in the health sector and several other instances of violation of civil liberties in the country that took place in 2020. The Committee had further requested the Government to provide information on the conviction and sentencing of a primary school teacher for public violence after being arrested while protesting against poor salaries. The Committee notes the Government's indication, also communicated to the DCM, that the case of the ZCTU Secretary General and the former President is closed and that the National Prosecuting Authority (NPA) has no intention of pursuing the matter further. The Committee notes from the report of the DCM that when a case is withdrawn before plea, as was the case with the two trade union leaders arrested in 2019, while such case is not prosecuted, it is technically not closed and can become an aggravating circumstance if there are further arrests. The DCM considered that the existing legal loophole in the procedure for dealing with cases withdrawn before plea should be closed and that to that end, the Government should engage with all relevant authorities and stakeholders. ***The Committee requests the Government to inform it of all measures taken or envisaged in this regard.*** The Committee further notes the Government's indication that it still awaits to receive from the trade unions concerned information regarding allegations pertaining to the case of the ARTUZ Secretary of Gender and the incidents of violence and arrests alleged to have taken place in 2020, in order to enable the investigation and follow-up with the Prosecutor General and the Zimbabwe Republic Police (ZRP). ***The Committee urges the Government to engage with the unions concerned without further delay with a view to investigating the alleged violations of civil liberties and trade union rights. The Committee requests the Government to provide information in this respect.***

The Committee had previously urged the Government to take all necessary steps to ensure that the compensation for damages suffered during the disturbances of August 2018 is paid without further delay and also requested the Government to inform it of all progress made in this regard. The Committee notes that, according to the Government, the former legal advisor of the ZCTU has filed a compensation application at the Magistrate's Court, as well as an application for variation of the compensation amount, which the court accepted. The Committee recalls the Government's previous indication that the consultations on compensation modalities were ongoing. The Committee notes with **concern** the ZCTU statement to the DCM that no consultation had taken place. The Committee **regrets** that over four years after the events, the issue of compensation has not been resolved, despite the

recommendations made to that effect by a commission of inquiry established to investigate the disturbances. **The Committee therefore urges the Government to engage with those who suffered during the disturbances, including the ZCTU former legal advisor, with a view to paying compensation as per the recommendations of the national commission of inquiry. The Committee requests the Government to provide information on the modalities and amount paid to the affected trade unionists.**

The Committee notes with **deep concern** the ZTUC and the ITUC allegations that in January 2022, members of the ARTUZ were attacked and arrested while being engaged in a protest action outside the National Social Security Office building where the National Joint Negotiating Council (NJNC) meeting was taking place between the Government and trade unions. According to the ZCTU, as the teachers gathered at the venue, 16 leaders of the ARTUZ were arrested, including the ARTUZ President, only to be released on bail six days later. The Committee further notes the ITUC allegation that the Secretary-General of the ARTUZ was arrested in July 2022 by the ZRP. According to the ITUC, he is facing charges of the murder of a colleague in 2016, despite the fact that a court investigation into the death of that colleague concluded there was no criminal act involved. The ITUC indicates that the arrest of the Secretary-General of the ARTUZ occurred a week after the release on bail of the ARTUZ President who is also facing similar criminal charges. **The Committee requests the Government provide without delay its detailed comments on all these serious allegations of violation of trade union rights and civil liberties.**

Maintenance of Peace and Order Act (MOPA). In its previous comment, the Committee had requested the Government to provide information on all developments made with regard to the tripartite consultative workshop to unpack the MOPA, as well as on the outcome of the workshop between trade unions and law enforcement bodies, including a thorough examination of the allegations by the ZCTU and the ITUC of violations of civil liberties. The Committee notes the Government's indication that the objectives of the workshop, which was held in September 2022, were to develop an understanding of the MOPA, both in law and in practice, between various State actors and the social partners and to develop a mutually agreed strategy to minimize clashes between law enforcement agencies and trade unions. The workshop also aimed to facilitate an appreciation and in-depth knowledge of international labour standards. The workshop afforded an opportunity for the NPA to present an overview of the national prosecution system, with reference to some trade union cases. The Government indicates that the key recommendations resulting from the workshop pertain to the need for continued regular engagement between the law enforcements agents and the social partners. Also part of the recommendations were continued capacity building of law enforcement agents and social partners on international labour standards, continued collaboration, and joint tripartite inspections, particularly where there are alleged violations of workers' rights at workplaces. The Committee **regrets** that no information has been provided by the Government on the review of the implementation of the two instruments developed for use by the law enforcement bodies (the handbook on international labour standards and the code of conduct). **The Committee therefore encourages the Government to continue engaging with the social partners and the relevant state authorities with a view to monitor the application of the MOPA in practice, the use by the law enforcement bodies of the two above-mentioned instruments and, with reference to the above, the allegations made by the ZCTU regarding the violation of civil liberties.**

Labour law reform and harmonization. The Committee recalls that for a number of years it has been requesting the Government to bring the Labour Act, Public Service Act and Health Services Act into conformity with the Convention in full consultation with the social partners.

Labour Act. The Committee had previously requested the Government to provide information on all progress made with regard to the legislative developments of the Labour Act, Public Service Act and Health Services Act, and the involvement of the social partners in the process in and outside the Tripartite Negotiating Forum (TNF). The Committee notes the Government's indication that a tripartite consultative workshop has been held by the Parliamentary Portfolio Committee for Labour and Social

Welfare (PPCL) in May 2022 on the Labour Amendment Bill. The objective of the workshop was to afford the social partners an opportunity to present their views and comments to Parliament ahead of the discussion of the Bill. As recommended by the DCM, the Government also submitted the Bill to the ILO and has received comments and observations thereon. The Government further indicates that the Bill has gone through the second reading in Parliament and is now awaiting debate in the House of Assembly. The Committee notes the Government's indication that the Ministry of Public Service, Labour and Social Welfare (the Ministry) is engaging with the Attorney General with a view to considering possible amendments to the Bill so as to take into account ILO comments and the PPCL report, which may lead to a notice for amendment on the Bill during the parliamentary discussions. The Government hopes the Bill will be adopted during the current session of Parliament. ***The Committee firmly expects that the Amendment Bill will be brought into conformity with the Convention and adopted without further delay and requests the Government to provide a copy of the amended Labour Act.***

Public Service Act. The Committee notes the Government's indication that the drafting of the Public Service Amendment Bill was concluded by the Attorney General's Office. The Bill has been submitted to the Cabinet Committee on Legislation (CCL) for consideration to take place by the end of October 2022. The Committee notes from the DCM report that while the Public Services Amendment Bill satisfied the Public Service Commission as it took into account the ILO supervisory bodies comments, it has not been discussed in the TNF. ***The Committee expects that the Public Service Act will be amended without further delay so as to bring it into conformity with the Convention. The Committee requests the Government to provide information on all progress made in this regard and to provide a copy thereof once the Amendment Bill is adopted.***

Health Service Amendment Act. The Committee notes the Government's indication that the Parliamentary Portfolio Committee on Health has concluded public hearings and consultations on the Act. The Committee notes, however, that the DCM observed the lack of consultations on the Act. The Committee also notes that the ZCTU considers that the Bill, as currently drafted, violates freedom of associations rights. ***The Committee therefore urges the Government to engage with the social partners, under the auspices of the TNF, to seek their views and proposals on the draft legislation which affects their rights and interests with a view to ensuring that the Bill is in full conformity with the Convention. The Committee requests the Government to inform it of all measures taken to this end.***

The Committee welcomes the Zimbabwe Tripartite Partners' Action Plan to address some of the issues raised in the preliminary findings of the DCM. ***The Committee encourages the Government to continue engaging with its social partners and the Office to ensure its implementation. The Committee requests the Government to provide information on all developments in this respect.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1998)

Previous comment

The Committee notes the observations submitted by the Zimbabwe Congress of Trade Unions (ZCTU) and by the International Trade Union Confederation (ITUC), both received on 1 September 2022, which refer to issues addressed by the Committee in the comment below.

Collective bargaining and the COVID-19 pandemic. The Committee previously requested the Government to provide its comments on the allegations of the ZCTU and the ITUC pertaining to: (i) the serious decrease of collective bargaining during the COVID-19; (ii) the lack of discussion before the Tripartite Negotiating Forum (TNF) of issues relating to the protective measures against COVID-19; and (iii) the rendering of the Bipartite Negotiating Panel for the health sector useless by the Government.

The Committee notes the Government's indications that, whilst the COVID-19 pandemic impacted the labour market, there were minimal effects on the collective bargaining processes. In sectors affected

by lock-down measures, innovations such as virtual and digital platforms were embraced with a view to ensuring continued negotiations and collective bargaining. The Government indicates that 56, 64 and 72 collective bargaining agreements have been registered in 2019, 2021 and 2022, respectively. The Government further indicates that, along with social partners under the auspices of the TNF, it agreed to a national minimum wage in 2020 to prop up negotiations across various sectors in light of challenges brought by COVID-19. The TNF held discussions on the management of the pandemic and containment measures, resulting in proposals that were adopted by the Government. The Government points out that collective bargaining in the health sector was never suspended, as there have been eight reviews on the conditions of service of the health sector during the pandemic period which saw frontline and essential workers getting improvements in their sector specific allowances. Consequently, the Government indicates that the Bipartite Negotiating Panel in the health sector was functional during the COVID-19 pandemic.

Follow-up to the 2009 recommendations of the Commission of Inquiry appointed under article 26 of the Constitution of the ILO

Legislative developments

The Committee had previously noted with concern that, despite its numerous requests, some of which predate the 2009 Commission of Inquiry, there was no concrete progress in amending both the Labour Act and the Public Service Act so as to bring them into conformity with the Convention. The Committee expected that the labour and public service legislation would be brought into conformity with the Convention without further delay in full consultation with the social partners and requested the Government to provide information on all progress made in this regard.

Labour Act. In its previous comment, the Committee had noted the Government's indication that the outcome of the tripartite consultations on the draft of the Labour Amendment Bill had been consolidated and integrated into the Bill. The Committee notes that the Bill is now before the Parliament. The Committee notes with **concern** that according to the most recent ZCTU's observations, several sections of the Labour Amendment Bill go against the agreed Principles and the legislative changes previously requested by the supervisory bodies of the ILO. In this respect, the Committee notes the Government's indication that the Bill might further be amended during the parliamentary discussions so as to take into account technical comments of the ILO. The Government expects the Bill to be adopted in the near future. ***The Committee expects that the Labour Amendment Bill will be brought into full conformity with the Convention without further delay. The Committee requests the Government to provide information on all progress made in this respect.***

Public Service Act and the Health Services Act. The Committee notes the Government's indication that a consultative workshop to discuss the Public Service Amendment Bill was held in March 2022 where all stakeholders, including the social partners and the TNF, were invited to partake in. The Bill went through peer review a month later and its drafting was concluded by the Attorney General's Office before being submitted to the Public Service Commission and the Ministry. The Bill has been submitted to the Cabinet Committee on Legislation, which, the Government expects, will consider the Bill before the end of October 2022. Regarding the Health Service Act, the Government indicates the first reading of the Health Service Amendment Bill was carried out in June 2022 and the Parliamentary Portfolio Committee on Health has concluded public hearings and consultations. ***The Committee expects that the health and public service legislation will be adopted without further delay and requests the Government to provide information on all progress made in this respect.***

Article 4 of the Convention. Promotion of collective bargaining. The Committee had previously requested the Government to provide information on the application of the Convention in practice in the special economic zones and to indicate the number of collective agreements in force for such zones. The Committee notes the Government's indication that the Labour Act is the principal act that governs

the employment issues, including collective bargaining in the special economic zones. Therefore, no separate collective agreements were concluded or gazetted under the Zimbabwe Investment Development Agency Act, as all collective bargaining agreements are still guided by the Labour Act. Establishments in special economic zones are covered by their respective collective bargaining agreement relating to the classification of their undertakings. ***The Committee requests the Government to provide information on the number of collective agreements concluded and in force, the sectors concerned, and the number of workers covered by these agreements.***

Application of the Convention in practice

Article 1. Adequate protection against acts of anti-union discrimination. The Committee notes with **concern** the ZCTU's numerous allegations of acts of anti-union discrimination. The ZCTU refers, in particular, to the following alleged instances: (i) the President of the Zimbabwe Petroleum and Allied Workers Union (ZIPAWU) was suspended from employment after addressing a press conference in his capacity as a trade union president condemning corruption in the company; (ii) four trade union leaders were dismissed as they were preparing to participate, on behalf of the National Railways Union, in a conciliation meeting over the 2022 wage dispute in March 2022; (iii) an enterprise whose employers are protected under the Look East Agreement unlawfully dismissed an employee, disregarded a ruling by the National Employment Council for Textile Industry and ignored appeals by the trade union; and (iv) anti-union discrimination in the mining sector, where some companies have not complied to the conditions and terms prevailing in the collective bargaining agreements. ***With reference to its previous request to continue engaging with the social partners on all issues of application of the Convention in practice and to ensure that all allegations of violation are promptly investigated, the Committee requests the Government to provide its comments on these serious allegations of anti-union discrimination and to continue to provide information on all measures taken in consultation with the social partners to prevent cases of anti-union discrimination in practice.***

The Committee had previously requested the Government to provide information on any developments regarding an electronic case management system, which would assist in tracking labour dispute cases, particularly those relating to anti-union discrimination. The Committee notes the Government's indication that the procurement process of the hardware equipment is underway, and the Harare Institute of Technology innovation hub, which has been engaged by the Ministry of Public Service Labour and Social Welfare, is in the process of finalizing the development of the system. ***The Committee requests the Government to provide information on any further developments in this respect.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 11** (Jamaica, Peru, Saint Vincent and the Grenadines, Solomon Islands, Sri Lanka); **Convention No. 87** (Algeria, Antigua and Barbuda, Barbados, Chad, Comoros, Congo, Djibouti, Ecuador, Gabon, Gambia, Guatemala, Jamaica, Kiribati, Luxembourg, Pakistan, Papua New Guinea, Peru, Poland, Portugal, Romania, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Serbia, Sierra Leone, Solomon Islands, Somalia, Spain, Sri Lanka, Suriname, Switzerland, Tajikistan, Timor-Leste, Türkiye, United Kingdom of Great Britain and Northern Ireland, United Kingdom of Great Britain and Northern Ireland: Anguilla, United Kingdom of Great Britain and Northern Ireland: Bermuda, United Kingdom of Great Britain and Northern Ireland: Montserrat, Uzbekistan, Vanuatu); **Convention No. 98** (Brazil, Comoros, Congo, Gabon, Gambia, Guinea, Hungary, Kenya, Kiribati, Malaysia, Morocco, Namibia, Rwanda, Samoa, San Marino, Senegal, Serbia, Singapore, Slovakia, Slovenia, Somalia, South Africa, South Sudan, Spain, Suriname, Tajikistan, Timor-Leste, Togo, Turkmenistan, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Kingdom of Great Britain and Northern Ireland: Anguilla, United

*Kingdom of Great Britain and Northern Ireland: Bermuda, United Kingdom of Great Britain and Northern Ireland: British Virgin Islands, United Kingdom of Great Britain and Northern Ireland: Isle of Man, United Kingdom of Great Britain and Northern Ireland: Montserrat, Vanuatu, Viet Nam); **Convention No. 135** (Antigua and Barbuda, Hungary, Poland, Portugal, Romania, Russian Federation, Rwanda, Sao Tome and Principe, Sri Lanka, Sweden); **Convention No. 141** (Afghanistan, India, Spain); **Convention No. 151** (Belize, Gabon, Guyana, Madagascar, Namibia, Peru, Poland, Seychelles, Slovenia, Spain); **Convention No. 154** (Belize, Hungary, Madagascar, Romania, Russian Federation, Rwanda, San Marino, Slovenia, Suriname).*

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 11** (Rwanda); **Convention No. 135** (Slovakia); **Convention No. 151** (Russian Federation, Slovakia).

Forced labour

Argentina

Forced Labour Convention, 1930 (No. 29) (ratification: 1950)

Protocol of 2014 to the Forced Labour Convention, 1930 (ratification: 2016)

Previous comment

The Committee welcomes the ratification by Argentina of the Protocol of 2014 to the Forced Labour Convention, 1930. ***It requests the Government to provide detailed information on its application, in accordance with the report form adopted by the Governing Body.***

The Committee notes the observations of the Confederation of Workers of Argentina (CTA Autonomous) of 31 August 2021, and the General Confederation of Labour of the Argentine Republic (CGT RA) of 1 September 2021.

Articles 1(1), 2(1) and 25 of the Convention. 1. Trafficking in persons. Institutional framework. The Committee notes from the final evaluation report of the Biennial National Plan to Combat the Trafficking and Exploitation of Persons for 2018–20, attached to the Government's report, that, out of a total of 111 actions foreseen under the action plan, 80 per cent have been carried out. The Government indicates that, while the main objectives established under the action plan have been achieved, the context arising from the COVID-19 pandemic had a significant impact on the implementation of certain activities. The Committee notes the numerous awareness-raising and training actions carried out on trafficking and labour exploitation, particularly through information campaigns, the distribution of leaflets, and in-person and online training activities. The Committee also notes the adoption of the National Plan to Combat the Trafficking and Exploitation of Persons for 2020–22, drafted by the executive committee of the Federal Council to Combat the Trafficking and Exploitation of Persons and to Protect and Assist Victims, with the contribution of 44 agencies acting at the national, provincial and municipal level, and in collaboration with the ILO and several stakeholders from civil society. The National Plan contains 100 actions focusing on four main areas, namely: prevention; assistance to victims; prosecution; and coordination and strengthening of the institutional framework. The Committee also notes that 25 institutional round tables for preventing and combating trafficking in persons were established, with the specific aim of contributing to the continuous training of public servants on trafficking in persons, widely disseminating the number of the free helpline to report situations involving trafficking, developing diagnostic tools to better prevent trafficking, and coordinating efforts in that area. The Commission notes, in this regard, that the CGT RA and the CTA Autonomous underscore the importance of this inter-institutional work, which, from their point of view, must be continued and deepened, in order to effectively end trafficking and labour exploitation.

The Committee welcomes the continued strengthening of the institutional framework to combat trafficking in persons, and requests the Government to continue to take the necessary measures to effectively implement the four main lines of action under the National Plan to Combat the Trafficking and Exploitation of Persons for 2020–22. The Committee requests it to provide information on the diagnostic tools developed and the evaluation reports drafted in this regard, and on the impact of the measures taken and the difficulties encountered, as well as the activities carried out under the framework of the Federal Council to combat the trafficking and exploitation of persons and to protect and assist victims, and the interinstitutional round tables for preventing and combating the trafficking of persons established at the provincial level.

Action by the labour inspectorate. The Committee notes the Government's indication that a special procedure has been established to review the indicators of labour exploitation that may be identified

by labour inspectors during their activities, in accordance with Ministry of Labour Resolution No. 230/18 of 12 June 2018. Furthermore, in 2020, a practical guide was specially designed for inspectors to help them better understand the issues and mechanisms that allow for situations involving trafficking and labour exploitation to be identified and reported. This guide, a copy of which is contained in an annex to the Government's report, identifies three main indicators of labour exploitation: (1) the duration of the working day; (2) the remuneration received; and (3) the work environment and working conditions, and explains how to fill in the report on labour exploitation indicators (*Acta IEL*). Where applicable, labour inspectors are required to report to the free helpline of the Ministry of Justice and Human Rights in order for the situation observed to be addressed as a matter of priority and, if necessary, request intervention by the security forces and judicial authorities. The Committee notes that several in-person and online activities have been organized to train labour inspectors on the use of these new tools. It notes that the labour inspectorate conducted 191,903 inspections in 2018, and 146,926 inspections in 2019, despite a reduction in staff numbers (342 inspectors in 2018 compared with 321 in 2019). The Committee also notes the detailed information provided by the Government on the work methods of the Special Unit for the Inspection of Irregular Work (UEFTI). The UEFTI carried out several monitoring exercises, including in collaboration with trade union organizations, which combined several sources of information such as: (1) the number of workers declared on the public registry of employers (REPSAL); (2) the number of workers officially covered by collective agreements concluded with enterprises in the agricultural sector (collective co-responsibility agreements (*convenios de corresponsabilidad gremial*)); (3) the regular production of an enterprise for a given period; and (4) the number of workers normally required to manage this workload. These inspection activities are mainly carried out in the agricultural sector and have also involved the use of video surveillance tools, such as drones and manual video devices, which are specially adapted for use in remote regions.

The Committee notes with **interest** the activities and new tools developed by the inspection services to identify situations involving labour exploitation. ***The Committee encourages the Government to pursue this course of action and to continue to take measures to strengthen the capacity for action and resources of the labour inspection services throughout the country, and in particular in the sectors in which the incidence of forced labour is well known, in order to identify situations involving labour exploitation, and particularly trafficking in persons for the purpose of labour exploitation, and to gather evidence, punish violations, and collaborate with other bodies responsible for enforcing the law.***

Repression and imposition of penalties. The Committee notes the detailed information provided by the Government on the awareness-raising and training actions undertaken by the General Prosecution Service and by its special unit, PROTEX, with regard to repressing trafficking in persons. The Committee notes in particular that, in 2018 and 2019, several actions were aimed at ensuring training for judges and officials in the judicial field, as well as members of the security forces. The Committee also notes that PROTEX participated in different exchanges of best practices with Brazil in the context of a South-South cooperation programme among Brazil and Argentina, and other countries (Bolivia, Colombia, Ecuador, Peru and Venezuela), implemented by the ILO. The Committee notes that, according to PROTEX's 2020 report, the free helpline received 3,525 complaints in 2018 and 2019, of which 472 concerned cases of labour exploitation, and 82 per cent were submitted to the judicial authorities. Since 2012, a total of 20,719 complaints were received via the helpline. Furthermore, according to the statistical information provided by the Government, between 2018 and 2019, 125 legal proceedings were instituted in cases of trafficking (35 cases of trafficking for the purpose of labour exploitation and 83 for the purpose of sexual exploitation). For the same period, 85 convictions were handed down, of which 23 were in cases of labour exploitation and 59 were in cases of sexual exploitation. ***The Committee urges the Government to pursue its efforts to ensure that all identified cases of trafficking be subject to in-depth investigations with a view to prosecution, and to allow for the imposition of dissuasive penalties for persons engaged in trafficking. The Committee requests the Government to continue to***

provide information on the activities carried out by PROTEX, including on its collaboration with other bodies responsible for enforcing the law, and on the number of investigations and prosecutions carried out in cases of trafficking for the purpose of labour or sexual exploitation, and on the number of convictions handed down and penalties imposed.

Combating complicity and corruption in the police forces. The Committee notes that, according to the information communicated by PROTEX with the Government's report, thanks to the reports received anonymously through the free helpline, 117 cases of complicity of law enforcement officials were identified in 2018 in cases of trafficking or labour exploitation, and 110 cases in 2019. However, due to the anonymity of the complainants and the sometimes-vague allegations in the majority of the complaints made, PROTEX indicates that it was only able to conduct investigations in 10 per cent of cases. One conviction for complicity was handed down against an official in 2019, and none in 2018. The Committee observes with **concern** the lack of more specific information from the Government with regard to the possible measures envisaged to put an end in practice to cases of corruption and complicity by law enforcement officials in cases of trafficking in persons, although only one conviction for complicity was handed down against an official, and the General Prosecution Service reported difficulties in this area. **The Committee urges the Government to continue to take proactive measures to ensure that investigations are duly conducted in cases of corruption and the complicity of law enforcement officials, and that appropriate and dissuasive penalties are imposed. The Committee requests the Government to provide detailed information on the measures implemented for this purpose and their impact, and updated information on the number of cases registered and prosecuted, as well as the penalties imposed.**

Protection and assistance to victims. The Committee notes that, according to the statistical information provided by the Government, between 2008 and 2022, assistance was provided for 18,220 victims of trafficking in persons (6,460 victims since 2018), of which 57 per cent were victims of labour exploitation, under the National Programme of Assistance and Support for Victims of Trafficking in Persons (Rescate). The Committee also notes the Government's indication that, in the context of the implementation of the action plan to combat the trafficking and exploitation of persons for 2020–22, in addition to the psychological, medical and legal assistance already provided for victims of trafficking, a framework agreement was signed in August 2021, with a view to facilitating their access to housing (agreement signed between the Ministry of Territorial Development and Habitat and the executive committee to combat the trafficking and exploitation of persons and assistance to victims). Concerning the strengthening of resources dedicated to the assistance of victims of trafficking, the Committee welcomes the adoption of Act No. 27.508 of 23 July 2019 establishing direct assistance funds for trafficking victims, regulated by Decree No. 844/2019 of 6 December 2019, and financed through the confiscation and seizure of property derived from the offence of trafficking, in order to ensure adequate redress for victims of trafficking. **The Committee requests the Government to provide information on the implementation of procedures aimed at allocating the amounts from the fines imposed and property seized, following the identification of offences in the area of trafficking in persons, to programmes and funds for the provision of assistance to victims, and to indicate the manner in which these resources are used. It also requests the Government to provide information on the assistance provided in this context and the number of victims of trafficking who have received this assistance.**

2. Labour exploitation in the garment sector and in agriculture. The Committee notes that, in their respective observations, the CTA Autonomous and the CGT RA indicate that trafficking and labour exploitation of persons in the garment sector persist, particularly in sweatshops in the city of Buenos Aires. These organizations indicate that the victims are mainly migrant workers, in particular from Bolivia, and that, despite the lack of official statistical data, it is estimated that around 70 per cent of the products manufactured in the garment sector are of irregular origin. The CTA Autonomous and the CGT RA add that these workers often have their passport confiscated, have to work long hours while confined together in a small room, often without ventilation, and receive low pay. In this regard, the Committee

notes that, according to the report published in 2020 by the PROTEX, out of the 38 complaints of trafficking for the purpose of labour exploitation received in the first six months of 2020, five concerned cases of exploitation in sweatshops in the southern province of the city of Buenos Aires.

Regarding the agricultural sector, the CTA Autonomous and the CGT RA refer to the significant number of victims of trafficking and labour exploitation in the agricultural sector identified in recent years, following several interventions carried out by the labour inspectorate, particularly in the provinces of Rio Negro, La Rioja, Corrientes, Santa Fe and Santiago del Estero. The CTA Autonomous indicates that these agricultural workers were often paid less than the minimum wage, worked long hours and lived and worked in dangerous, precarious and degrading conditions, slept in tents without access to drinking water. According to the CTA Autonomous, collaboration between trade union organizations and various competent State bodies made it possible to identify several cases of trafficking and labour exploitation in the agricultural sector, which quickly led to prosecutions before PROTEX and to the activation of victim protection and assistance mechanisms.

The Committee notes the Government's indication in its report that a cooperation agreement was signed on 26 March 2019 between the Ministry of Labour and the National Register of Agricultural Workers and Employers (RENATRE), with a view to implementing joint inspection activities to identify undeclared work. It also refers to the work carried out to identify and disseminate the indicators of labour exploitation and child labour in the agricultural sector. The Committee notes that, according to PROTEX's 2020 report, in the first six months of 2020, 47 per cent of the complaints received concerning cases of labour exploitation in the agricultural sector, of which seven cases required urgent intervention by security forces. Furthermore, between July 2020 and July 2021, the labour inspectorate services identified 26 cases of trafficking for the purpose of labour exploitation in the agricultural sector concerning 222 workers, following joint actions carried out with RENATRE and other trade union organizations.

The Committee notes with **concern** from the above information that there is still recourse to forced labour in the garment sector and in agriculture.

Referring to its comments above on strengthening the general institutional framework to combat trafficking in persons, the Committee requests the Government to step up the efforts to combat all forms of labour exploitation, including the trafficking of persons for the purpose of labour exploitation, in the garment sector and in agriculture, and to continue to provide information on the targeted measures taken in this regard, particularly in collaboration with workers' and employers' organizations.

The Committee is raising other matters in a request addressed directly to the Government.

Australia

Forced Labour Convention, 1930 (No. 29) (ratification: 1932)

Previous comment

Articles 1(1), 2(1) and 2(2)(c) of the Convention. Privatization of prisons and prison labour. For a number of years, the Committee has been drawing the Government's attention to the fact that the privatization of prison labour goes beyond the conditions provided for under *Article 2(2)(c)* of the Convention for exempting compulsory prison labour from the scope of the Convention. However, where the necessary safeguards exist to ensure that the prisoners concerned offer themselves voluntarily, by giving their free, formal and informed consent and without being subjected to pressure or the menace of any penalty, as required by *Article 2(1)* of the Convention, work of prisoners for private companies does not come under the scope of the Convention, since no compulsion is involved. The Committee requested the Government to take the necessary measures to ensure that the free, formal and informed consent

of prisoners is legally required for work in privately operated prisons, as well as for all work of prisoners for private enterprises.

1. *Prison labour in privately operated prisons.* The Committee previously noted that there were no privately operated prisons under the *Northern Territory* and *Australian Capital Territory* jurisdictions. The Committee also noted that, in *New South Wales*, the employment of convicts in correctional centres was voluntary.

As regards *Queensland*, the Committee observed that prisoners are obliged to perform work under section 66 of the *Corrective Services Act 2006*, which provides that the chief executive may, by written order, transfer a prisoner from a corrective services facility to a work camp, and the prisoner must perform community service as directed by the chief executive. It also noted that the work performed by prisoners is not limited to community services performed within the framework of work camps, but also includes employment in commercial industries operating on a commercial fee-for-service basis and in service industries to maintain the self-sufficiency of the correctional system and other unpaid work. The Committee notes the Government's statement, in its report, that transfer of prisoners to a work camp is a management decision made about the best placement of a prisoner according to the *Queensland Corrective Services' (QCS) Custodial Operations Practice Directives (COPDs)*. Such community services include maintenance of public spaces and infrastructures (painting, mowing, gardening and cleaning) as well as building and restoring structures in public spaces, such as picnic tables. In 2019-20, 193,128 hours of community service were completed by prisoners. According to the Government, the financial value of the work performed in the community by prisoners is representative of making offenders accountable and providing reparation to the community as part of their rehabilitation. As regards participation of prisoners in commercial industries operating on a commercial fee-for-service basis and in service industries to maintain the self-sufficiency of the correctional system, the Government states that convicted prisoners are expected to work as it provides them with the opportunity to acquire vocational skills and contributes to their ability to gain and retain employment upon release. Unacceptable behaviour or work performance may incur the penalty of being placed in lower level employment positions and receiving a lower level incentive payment rate. The Government adds that the COPD on prisoner employment outlines the *Queensland Corrective Services' objective of having convicted prisoners employed wherever possible, and prison industries providing prisoners with meaningful activity through employment on a commercial, fee-for-service basis or prisoner services or community service.* According to above-mentioned COPD, Chief Superintendent of a corrective services facility must provide for employment of prisoners by assigning them to available positions using an interdisciplinary approach that considers a prisoner's behaviour. The Committee notes, from the *Report on Government Services 2022 of Australia*, that, in 2020-21 in *Queensland*, 26.3 per cent of the eligible prisoners were employed in commercial industries, while 38.9 per cent of them were employed in service industries (Chapter 8, table 8 A.12). It further notes the Government's statement that, since 1 July 2021, all *Queensland* prisons are under public administration and prisoners will no longer be under private administration in that State.

As regards *South Australia*, the Committee recalls that, pursuant to section 29(1) of the *Correctional Services Act 1982*, prison labour is compulsory both inside and outside correctional institutions. The Government indicated, however, that prisoners at Mt Gambier Prison (*South Australia's* only privately operated prison) apply in writing to undertake work programmes, and that prisoners in the Adelaide Pre-Release Centre voluntarily apply for outside employment with private enterprises. The Committee notes the adoption of the *Correctional Services (Accountability and Other Measures) Amendment Act 2021*, which amended section 29(1) of the *Correctional Services Act 1982*, but observes that prison labour is still compulsory while remand prisoners are no longer explicitly excluded from this obligation. Furthermore, it notes the Government's indication that the Adelaide Remand Centre has been privatized and is now privately operated.

As regards *Victoria*, the Committee previously noted the Government's indication that prisoners working for both publicly and privately operated prisons have the same rights and entitlements, and that in both cases convicts must consent to undertake work. The Committee notes the Government's statement that all convicted prisoners are given the opportunity to work in prison industries in order to develop their employment skills. The Government adds that, in privately operated prisons, prisoners are not compelled to work. Vacant positions in prison industries are advertised to prisoners and they have the opportunity to apply for these positions. Prisoners are remunerated for their work in prison industries. If a prisoner refuses to work in prison industries, they are classified as unemployed and do not receive any remuneration but receive essential items and are encouraged to participate in other structured day activities such as training, education or programmes.

As regards *Western Australia*, the Committee previously noted that prison labour is compulsory under section 95(4) of the Prisons Act 1981 and section 43 of the Prison Regulations 1982. The Government indicated that such provisions had not been enforced as, in practice, prisoners are not forced to participate in work programmes, even in privately operated prisons. The Committee noted that, while section 6.5.3 of Prisons Procedure 302 on work camps provides that prisoners may apply for work camp placement, its section 7.1 provides that the designated superintendent shall ensure that those prisoners who may be suitable for work camp placement who have not initiated an application are appropriately assessed for inclusion. The Committee notes the Government's indication that there are currently five prisoner work camps and that the superintendents are aware of eligible prisoners and proactively canvas all prisoners to gather interest for work camp placement. The Department of Justice encourages prisoners to consider work camp placements, however, they have to individually consent to the placement and are appraised of and agree to the conditions of the placement.

In light of the above considerations, the Committee recalls that the Convention addresses not only situations where prisoners are "employed" by the private company or placed in a position of providing services to the private company, but also situations where prisoners are hired to or placed at the disposal of private undertakings but remain under the authority and control of the prison administration. It again draws the Government's attention to the fact that the work of prisoners in private prisons or for private companies is only compatible with the Convention where it does not involve compulsory labour. To this end, the formal, freely given and informed consent of the persons concerned is required, in addition to further guarantees and safeguards covering the essential elements of a labour relationship, such as wages, occupational safety and health and social security. ***The Committee expresses the firm hope that the necessary measures will be taken in Queensland, South Australia, Victoria and Western Australia, both in law and practice, in order to ensure that formal, freely given and informed consent of convicts is required, as well as conditions approximating those of a free labour relationship for work in privately operated prisons and for all work of prisoners for private enterprises, both inside and outside prison premises. It requests in particular the Government to:***

- (i) provide information on the legislative provisions that regulate the procedures and working conditions of prisoners employed in other prison industries in Queensland, including both commercial industries and services industries;***
- (ii) amend section 29(1) of the Correctional Services Act 1982 of South Australia, in order to align it with the indicated practice, and specify whether remand prisoners are now compelled to work;***
- (iii) provide information on the legislative provisions in the State of Victoria which provide that prisoners in privately operated prisons are not compelled to work, while indicating how, in practice, it is ensured that the prisoners concerned offer themselves voluntarily, by giving their free and informed consent (as well as examples of the forms through which prisoners may apply for vacant positions in prison industries and any other relevant document signed); and***

(iv) amend section 95(4) of the Prisons Act and section 43 of the Prison Regulations of Western Australia, in order to align the legislation with indicated practice.

2. *Work of prisoners for private enterprises. Tasmania.* In its previous comments, the Committee noted that there were no privately operated prisons in *Tasmania*. However, according to section 33 of the Corrections Act 1997, a prisoner may be directed to work within or outside of the prison premises. Pursuant to Schedule 1 (Part 2.26) of the Act, refusal to comply with such direction is considered a prison offence. The Government indicated that prisoners in *Tasmania* work for private enterprises on a voluntary basis and must apply for external leave in accordance with the Corrections Act 1997 (sections 41 and 42). The Government added that, in practice, there is no requirement for prisoners to participate in such employment and no penalty for non-participation.

The Committee notes the Government's statement that there has been no change introduced to align the legislation with the indicated practice but that due consideration would be given to the Committee's request to amend the Corrections Act 1997. ***The Committee welcomes this information and once again requests the Government to take the necessary steps in order to align the legislation with the indicated practice according to which prisoners work for private enterprises on a voluntary basis.***

The Committee is raising other matters in a request addressed directly to the Government.

Azerbaijan

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2000)

Previous comment

The Committee notes the observations of the Azerbaijan Trade Unions Confederation (ATUC), received on 13 May 2022, the International Organisation of Employers (IOE), received on 25 August 2022, and the International Trade Union Confederation (ITUC), received on 1 September 2022. It also notes the detailed [discussion](#) that was held by the Committee on the Application of Standards (the Conference Committee) at the 110th Session of the International Labour Conference (June 2022), regarding the application of the Convention by Azerbaijan, as well as of the Government's report.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

Article 1(a) of the Convention. Sanctions involving compulsory labour as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system. The Committee previously noted the indications by a significant number of United Nations and European institutions and bodies on the use of various provisions of the Criminal Code as a basis for the prosecution of journalists, bloggers, human rights defenders, and other persons who had expressed critical opinions. The Committee notes that the Conference Committee urged the Government to ensure, among others, that the right to hold or express political views or views ideologically opposed to the established political, social or economic system without the threat of penalties involving compulsory labour is fully respected in line with *Article 1(a)* of the Convention.

The Committee takes due note of the adoption by the Government of the Action Plan for 2022–23 containing various measures to address the 2022 conclusions of the Conference Committee. The Committee also notes the Government's request for ILO technical assistance to conduct a review of the national legislation and practice to ensure the application of the Convention.

The Government further indicates that the sanctions of correctional and public works established for the violation of sections 147 regarding defamation, 169.1 on organization or participation in a prohibited public assembly, 233 on organization of group actions violating public order, and 283.1

regarding inflaming the national, racial or religious enmity of the Criminal Code do not constitute compulsory labour. In particular, according to the Government, the sanction of correctional work which represents a deduction of 5–20 per cent from the convicted person's earnings does result in the direct involvement of a convicted person in compulsory labour. The Government also points out that the sanction of public works which consists of an obligation to perform socially useful work does not lead to the social isolation of convicted persons and should be performed considering their age, state of health and professional experience.

The Government further underlines that sections 147, 169.1, 233 and 283.1 of the Criminal Code are in line with the Forced Labour Convention, 1930 (No. 29) and Convention No. 105 as the former, in *Article 2(2)(c)*, stipulates that "any work or service exacted from any person as a consequence of a conviction in a court of law ..." shall not be considered forced or compulsory labour. In addition, the Government points out that sections 147, 169.1, 233 and 283.1 of the Criminal Code are not widely used in practice. According to the statistics of the Supreme Court of Azerbaijan, in 2021, there were approximately 32 court decisions handed down under section 147; no court decision under section 169.1; 2 court decisions under section 233; and 2 court decisions under section 283.1. The Government further indicates that, in 2021, an amnesty was applied to 17,267 convicted persons, which is the largest amnesty in terms of the number of persons covered. In addition, a number of offences were decriminalized following the legislative amendments to the Criminal Code in 2017 and 2020.

With respect to the judgments delivered by the European Court of Human Rights (ECHR) concerning the detentions and convictions of opposition political activists in Azerbaijan, the Government indicates that in several cases, the convictions have been quashed or the criminal proceedings have been terminated and compensation has been provided to the applicants.

The Committee notes the observations of the ATUC indicating its request to the ILO for technical assistance to conduct awareness-raising and capacity building activities on the application of the Convention. The ATUC further indicates that it has not received any complaints on the use of forced or compulsory labour. The Committee also notes the IOE's observations indicating that immediate and effective steps are needed to ensure that no person who peacefully expresses political opinions or opposes the established political, social or economic system can be given a sentence involving compulsory labour or imprisonment, either in law or in practice. The Committee further notes that the ITUC expresses its disagreement with the Government's statement that the sanction of correctional work does not amount to compulsory labour. The ITUC further indicates that despite the decriminalization of certain offences, the administrative penalties which are applied against human rights activists have increased from 15 days to 90 days of imprisonment.

With respect to sanctions of correctional work, public works and imprisonment established by sections 147, 169.1, 233 and 283.1 of the Criminal Code, the Committee notes that they involve compulsory labour for convicted persons. Regarding the sanction of correctional work, the Committee notes that convicts without a job are obliged to seek employment, including by registering with the employment agency, and cannot refuse a job offered to them (section 43 of the Code on the Execution of Penal Sentences). Convicts who have not found a job without a justified reason within a determined period of time are subject to sanctions, including the replacement of the unserved part of correctional work by the sanctions of restriction of freedom or imprisonment (section 51 of the Code on the Execution of Penal Sentences). The Committee notes in this respect that the sanction of correctional work leads to indirect coercion to perform labour under the threat of a penalty and results in compulsory labour. The Committee further observes that public works also involve compulsory labour as they consist of an obligation to perform socially useful work for a period ranging from 240 to 480 hours (section 47 of the Criminal Code). Furthermore, the sanction of imprisonment involves the obligation to perform labour, in accordance with section 95.1 of the Code on the Execution of Penal Sentences. The Committee therefore notes that sanctions of correctional work, public works and imprisonment involve compulsory labour and thus fall under the scope of the Convention.

The Committee further recalls that the exceptions from the definition of forced or compulsory labour set out by Article 2(2) of Convention No. 29 do not automatically apply to Convention No. 105. More particularly, the exemption concerning prison labour or other forms of compulsory labour exacted as a consequence of a conviction in a court of law does not apply to convicted persons sentenced to imprisonment or other punishments involving compulsory labour for expressing political views or views ideologically opposed to the established political, social or economic system within the meaning of Article 1(a) of Convention No. 105 (2007 General Survey on the eradication of forced labour, paragraph 144).

The Committee strongly urges the Government to continue to take the necessary measures to ensure that, both in law and practice, no one who, in a peaceful manner, expresses political views or opposes the established political, social or economic system can be sentenced to sanctions under which compulsory labour is imposed. The Committee once again requests the Government to review sections 147, 169.1, 233 and 283.1 of the Criminal Code by clearly restricting the scope of these provisions to situations connected with the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour. In this respect, the Committee requests the Government to provide information on the outcome of the review of the national legislation and practice. The Committee further requests the Government to continue to provide information on the application of sections 147, 169.1, 233 and 283.1 of the Criminal Code in practice, including any prosecutions carried out or court decisions handed down, indicating the penalties imposed and the facts that led to convictions.

The Committee is raising other matters in a request addressed directly to the Government.

Belarus

Forced Labour Convention, 1930 (No. 29) (ratification: 1956)

Previous comment

The Committee notes the observations of the Belarusian Congress of Democratic Trade Unions (BKDP), received on 30 August 2021 and 14 January 2022, and requests the Government to provide its reply to these observations. It also notes the discussion that was held by the Committee on the Application of Standards (the Conference Committee) at the 108th Session of the International Labour Conference (June 2019) regarding the application of the Convention by Belarus.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)

Articles 1(1), 2(1) and 2(2)(c) of the Convention. Compulsory labour imposed by the national legislation on certain categories of workers and persons. 1. Financial penalties imposed on unemployed persons. The Committee notes from the conclusions of the Conference Committee that due to the 2018 amendments to Presidential Decree No. 3 of 2015, the sections regarding administrative penalties, levies or compulsory work imposed on unemployed persons has been deleted and, instead, the Decree focuses on employment promotion. The Committee also notes the Government's indication, in its report, that according to the amended Decree, people who are "able-bodied" and capable of working but who are not working have to pay for utility and public services at the full rate without any state subsidy. The Government further specifies the categories of persons who are not required to pay for utility and public services, including hot water, gas supply and heating, at the full rate since they are classified as economically active persons. Such categories include citizens who are legally employed, registered entrepreneurs, military personnel, clergymen, registered unemployed persons, parents or guardians of children under 7 years of age, students in full-time education, people who work or receive education

abroad, persons with disabilities, pensioners and other categories, as determined by the Council of Ministers' Decision No. 239 of 31 March 2018. The Government also indicates that the existence of a difficult life situation is taken into account, when deciding whether a person shall pay for utility and public services at the full rate.

The Committee notes the BKDP's observations reiterating its previous statement that the replacement of the former levy imposed on unemployed citizens by an obligation to pay for utilities and public services at the higher price constitutes another form of financial penalty. It further points out that although the amended Decree No. 3 of 2015 uses different terminology, it preserves the same repressive and discriminatory essence and constitutes indirect coercion to work. The BKDP also indicates that there is no publicly available data on the total number of persons included in the list of "able-bodied" citizens not involved in the economy.

The Committee requests the Government to continue to ensure that the implementation of Decree No. 3 of 2015 in practice does not go beyond the purpose of employment promotion. The Committee also requests the Government to continue to provide information on the application of the Decree in practice, particularly on the number of persons who are enlisted as "able-bodied" citizens not involved in the economy, as well as the number of persons who are required to pay for utilities and public services at the full rate.

2. *Persons interned in "medical labour centres".* The Committee previously noted that according to Act No. 104-3 of 4 January 2010, citizens suffering from chronic alcoholism, drug addiction or substance abuse who have faced administrative charges (three or more times in one year) for committing administrative violations under the influence of alcohol, narcotics or other intoxicating substances may be sent to medical labour centres. Another category of citizens who may be placed in medical labour centres comprises persons who are required to reimburse the State expenditure on the maintenance of children placed under state care, and who have committed disciplinary offences at work twice in one year, as a result of using alcohol or other intoxicating substances. The Committee further noted that both categories of persons might be sent to medical labour centres by a court order for a period of 12–18 months. The Conference Committee also noted that citizens might be required to participate in vocational skills training and compulsory work in medical labour centres, and called on the Government to ensure that no excessive penalties are imposed on citizens to oblige them to perform work.

The Committee notes that Act No. 70-3 of 10 December 2020 amending Act No. 104-3 of 4 January 2010 has established a new category of citizens who may be sent to medical labour centres. It includes "able-bodied" non-working citizens leading an asocial lifestyle who were warned about the possibility of being sent to medical labour centres and committed an administrative offence under the influence of alcohol, narcotics or other intoxicating substances within a year of the warning. Such persons may be sent to medical labour centres only by a court order after medical examination. The Government points out that timely referral of these categories of citizens to medical labour centres is considered a preventive measure taken against possible offences due to their asocial lifestyle. In this respect, the Committee notes that in her 2019 report, the United Nations Special Rapporteur on the situation of human rights in Belarus noted that the term "asocial lifestyle" is extremely vague and expressed concern that this could lead to cases of arbitrary detention or other abuses (A/HRC/41/52, paragraph 79).

The Government points out that due to the state policy on the prevention of drunkenness and alcoholism among the population, as well as the social rehabilitation of persons suffering from alcoholism, drug addiction and substance abuse, the number of people sent to medical labour centres has almost halved over the last five years. The Government further indicates that citizens placed into medical labour centres may work at the production enterprises of the Ministry of Internal Affairs or other enterprises located near medical labour centres. In this regard, the Committee observes, from the internal regulations of medical labour centres approved by the Decree of the Ministry of Internal

Affairs No. 86 of 25 March 2021, that persons placed in medical labour centres are obliged to work at places and in jobs determined by the administration of medical labour centres (section 185).

The Committee notes the BKDP's observations indicating that medical labour centres are de facto detention institutions, where the assistance in the treatment of alcoholism is either not provided at all or only formally. The BKDP further indicates that in 2020, 4,494 persons were sent to medical labour centres and about one third of these persons did not have problems with alcohol. The BKDP also indicates the cases of work performed by persons placed in medical labour centres for the benefit of the private sector.

The Committee requests the Government to continue to provide information on the implementation of Act No. 104-3 of 4 January 2010, as amended, in practice, indicating, in particular, the total number of persons placed in medical labour centres. The Committee further requests the Government to specify criteria for the determination of a lifestyle as "asocial" according to Act No. 104-3, as amended in 2020. It also requests the Government to indicate the types of work which may be performed by persons placed in medical labour centres and whether such work may be performed for the benefit of private entities.

The Committee is raising other matters in a request addressed directly to the Government.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1995)

Previous comments: [observation](#) and [direct request](#)

The Committee notes the observations of the Belarusian Congress of Democratic Trade Unions (BKDP), received on 30 August 2021 and 14 January 2022, and requests the Government to provide its reply to these observations.

Article 1(a) of the Convention. Sanctions involving compulsory labour as a punishment for the expression of political views or views opposed to the established political, social or economic system. The Committee previously requested the Government to amend or repeal sections 193(1) (participation in the activities of unregistered groups), 339 (hooliganism and malicious hooliganism), 342 (organization of group actions violating public order), 367 (libelling the President), 368 (insulting the President) and 369(2) (violation of the procedure for the organization or holding of assemblies, meetings, street marches, demonstrations and picketing) of the Criminal Code to ensure that no penalties involving compulsory labour may be imposed for the peaceful expression of political views or views ideologically opposed to the established political, social or economic system.

The Committee notes that according to the information provided by the Government, in its report, section 193(1) of the Criminal Code was repealed. The Government further indicates that there is no linkage between crimes punishable under sections 339, 342, 367, 368 and 369(2) of the Criminal Code and the peaceful expression of political views or views by citizens that are ideologically opposed to the established political, social and economic system.

The Committee notes that according to the 2020 Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Belarus in the context of the 2020 presidential election, criminal charges were increasingly brought in the context of protests. Between 9 August and 30 November 2020, more than 1,000 criminal cases were opened against peaceful protesters, opposition members and supporters, journalists, human rights defenders, lawyers and persons critical of the Government. The overwhelming majority of criminal charges against protesters were brought under section 342 (organization of group actions violating public order) of the Criminal Code; section 293 (organization of or participation in mass riots), punishable by up to eight years of imprisonment; section 339.2 (hooliganism and malicious hooliganism); and various charges for resistance to and violence against law enforcement officers. Charges were also brought for "insulting State officials", including by comments posted on social media, and for "insulting the flag and national

symbols" (A/HRC/46/4, paragraphs 43–45). The Committee notes the BKDP's observations that as of 14 November 2021, 843 people in Belarus were considered political prisoners and more than half of them were in institutions where prisoners are required to work.

The Committee also notes that, in its Opinion No. 50/2021, the United Nations Working Group on Arbitrary Detention concluded that the arrest and detention of a journalist under sections 130(3) (deliberate incitement to social hatred), 293(1), and 342 of the Criminal Code was arbitrary and based solely on his journalistic activity, and his freedoms of expression and assembly (A/HRC/WGAD/2021/50, paragraphs 5, 82 and 83). In addition, in its Opinion No. 23/2021, the United Nations Working Group on Arbitrary Detention concluded that the arrest and detention of the opposition candidate in the 2020 election under sections 130(3), 191(1) (obstruction of the exercise of electoral rights), 293(1) and 342(1) of the Criminal Code was arbitrary and the criminal proceedings were used to prevent a high-level political opponent expressing his views and participating in public life (A/HRC/WGAD/2021/23, paragraphs 61, 85 and 88).

The Committee **deplores** the use of various provisions of the Criminal Code to prosecute and convict persons who express their political views or views ideologically opposed to the established political, social or economic system, leading to penalties of the limitation of freedom, deprivation of freedom or imprisonment, all involving compulsory labour. ***The Committee therefore strongly urges the Government to take immediate and effective measures to ensure that, both in law and practice, no one who, in a peaceful manner, expresses political views or opposes the established political, social or economic system, can be sentenced to sanctions under which compulsory labour is imposed. The Committee once again requests the Government to amend or repeal sections 339, 342, 367, 368 and 369(2) of the Criminal Code by clearly restricting the scope of these provisions to situations connected with the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour. The Committee requests the Government to provide information on any progress made in this respect.***

Article 1(d). Sanctions involving compulsory labour as a punishment for participation in strikes. The Committee notes the indication by the Government that participation of citizens in peaceful strikes or peaceful protests does not entail criminal liability, particularly under sections 310(1) (the intentional blocking of transport communications) and 342 (the organization of group actions violating public order and resulting in disturbances of operation of transport or work of enterprises, institutions or organizations) of the Criminal Code.

In this regard, the Committee noted in its 2021 [comments](#) on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) new detailed allegations of retaliation, including arrests and detentions of trade unionists and workers who participated in trade union led strike actions. The Committee further notes that in its conclusions of 2022, the Conference Committee on the Application of Standards noted with great concern and deeply regretted the numerous allegations of extreme violence to repress peaceful protests and strikes, and the detention, imprisonment and torture of workers while in custody following the presidential election in August 2020, as well as allegations regarding the lack of investigation in relation to these incidents.

The Committee notes with **deep concern** the information relating to the punishment of workers with sanctions involving compulsory labour for their peaceful participation in strikes. The Committee recalls that *Article 1(d)* of the Convention prohibits the use of any form of compulsory labour as a punishment for having participated in a strike. The Committee further reiterates that sections 310(1) and 342 of the Criminal Code are worded in broad terms and allow for sanctions involving compulsory labour, against the peaceful participation in assemblies, meetings, street marches, demonstrations and picketing.

The Committee urges the Government to take the necessary measures to ensure, both in law and practice, that no sanctions involving compulsory labour can be imposed for the mere fact of peacefully

participating in strikes. It requests the Government to amend or repeal sections 310(1) and 342 of the Criminal Code by clearly restricting the scope of these provisions to situations connected with the use of violence or incitement to violence. The Committee also requests the Government to provide information on the application of sections 310(1) and 342 of the Criminal Code in practice, including relevant court decisions, indicating in particular the penalties applied.

Botswana

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1997)

Previous comment

Article 1(a) of the Convention. Sanctions involving the obligation to work as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system. In its previous comments, the Committee noted that a number of provisions of the Penal Code are worded in terms broad enough to lend themselves to application as a means of punishment for the expression of views. It referred to offences under sections 47 and 48 (publications prohibited by the President as being “contrary to the public interest”), 51(1)(c), (d) and (2) (seditious offences; raising discontent or disaffection amongst the inhabitants being considered a seditious intention), 66–68 (managing or being a member of an unlawful society, particularly of a society declared unlawful as being “dangerous to peace and order”) of the Penal Code which may be punished with sentences of imprisonment, involving compulsory prison labour, pursuant to section 92 of the Prisons Act, Cap 21:03 of 1979.

The Committee notes the Government’s information in its report that consultations are under way to review the Constitution, to inform the Government of the legislation requiring alignment with the Constitution, including the Penal Code. ***The Committee expresses the firm hope that the necessary measures will be taken to amend sections 47, 48, 51(1)(c), (d) and (2), sections 66–68, as well as sections 74 and 75 of the Penal Code, so as to ensure that no penalties involving compulsory labour may be imposed for the expression of political views or views opposed to the established system, for example by restricting the scope of application of these provisions to situations of violence, incitement to violence, or engagement in preparatory acts aimed at violence. The Committee requests the Government to provide information on the developments made in this regard.***

Article 1(c). Punishment for breaches of labour discipline. The Committee previously noted that section 43(1)(a) of the Trade Disputes Act (No. 15 of 2004) provides for penalties of imprisonment involving compulsory prison labour for any wilful breach of a contract of employment by an employee who is acting either alone or in combination with others, if such breach affects the operation of essential services. The Committee recalled that *Article 1(c)* of the Convention prohibits the use of compulsory labour as a punishment for breaches of labour discipline. Penalties involving compulsory labour could only be held compatible with the Convention when applied to breaches of labour discipline that impair or are liable to endanger the operation of essential services, in the strict sense of the term. The Committee observed in that regard that the list of essential services specified in the Trade Disputes Act was not limited to essential services in the strict sense of the term.

The Committee notes the Government’s information that the list of essential services under the Trade Disputes Act has been amended by the Trade Disputes (Amendment) Act, 2019. It notes with **interest** the fact that the list of essential services has been reduced and that services such as diamond sorting, cutting and selling services; teaching services; government broadcasting services; the Bank of Botswana; vaccine laboratory services; railways operation and maintenance services; immigration and customs services; transportation and distribution services of petroleum products; sewerage services; and public veterinary services have been removed from the list. ***The Committee refers in this regard to its comments under the Freedom of Association and Protection of the Rights to Organise Convention, 1948 (No. 87).***

Brazil

Forced Labour Convention, 1930 (No. 29) (ratification: 1957)

The Committee notes the observations of the International Trade Union Confederation (ITUC), the Single Confederation of Workers (CUT) and the National Association of Labour Court Judges (ANAMATRA), received on 1 September, 2 September and 6 December 2021, respectively. It also notes the Government's response to the observations of the CUT.

Articles 1(1), 2(1) and 25 of the Convention. "Slave labour". (a) Legal framework. (i) Section 149 of the Criminal Code criminalizing "reducing a person to a condition akin to slavery". The Committee previously referred to the debates concerning the issue of the criminalization of "reducing a person to a condition akin to slavery" as envisaged in section 149 of the Criminal Code and the legislative proposals to amend the section. The Committee notes the Government's reference in its report to the adoption of Decree No. 1293 of 2017 which sets out a specific definition of the elements that constitute the crime of reducing a person to a condition akin to slavery within the meaning of section 149 of the Labour Code, namely forced labour, a harassing working day, degrading working conditions, the restriction of the freedom of movement of the worker by reason of having contracted a debt, and/or retention at the workplace. In this regard, the Government emphasizes that it emerges from these definitions and the case law that "the work of a person reduced to a condition akin to slavery within the meaning of section 149 of the Criminal Code (hereinafter "slave labour") is not limited to the use of physical violence (when used to restrict individual freedom), but may also be characterized by various other forms, where there is abuse of human dignity.

The Committee notes that in their observations both the CUT and the ANAMATRA express concern at the fact that the legal specification of the notion of reducing a person to a condition akin to slavery continues to be controversial at the political level and in certain jurisdictions. The ANAMATRA expresses concern at several draft legislative texts submitted with a view to the amendment of section 149 of the Criminal Code and at the restrictive interpretation of this section by certain first instance courts, and in particular of the concept of degrading working conditions, despite the fact that higher courts have already given a precise and objective interpretation of the concept in consolidated case law.

The Committee requests the Government to continue taking the necessary measures to ensure that the discussions relating to the scope of application of section 149 of the Criminal Code do not constitute in practice an obstacle to the action taken by the competent authorities for the identification and protection of the victims of any situation involving forced labour and to punish the perpetrators of this crime in an appropriate and swift manner.

(ii) *Article 243 of the Constitution.* The Committee recalls that, following the Constitutional amendment adopted in 2014, article 243 of the Constitution allows the expropriation of rural or urban property in which the use of slave labour has been identified and the consignment of this property to agrarian reform and social housing programme. The Committee notes the absence of information on the application of this article in practice. It observes in this regard that, although the Ministry of Labour and the Higher Labour Court consider that this article may be directly applied, the Attorney-General of the Union is of the view that article 243 of the Constitution is of "limited efficacy" and that its application depends on the adoption of legislation to give effect to it (case No. 000450-57.2017.5.23.0041, labour tribunal of Colider (TRT, 23rd Region) and case No. TST-RR-450-57.2017.5.23.0041). The Committee reiterates that the possibility of the expropriation of the property of persons found guilty of having imposed "slave labour" is an important tool in combating this phenomenon as it contributes to undermining the economic interests of those who exploit slave labour and to combating the sense of impunity. ***The Committee requests the Government to provide information on the measures adopted to ensure that effect is given in practice to this provision of the Constitution. It requests the Government to provide information on any decisions concerning expropriation that have been handed***

down and the measures adopted to ensure their execution. In particular, the Committee requests the Government to indicate whether the funds resulting from expropriated property directly benefit workers who have been victims of forced labour, thereby preventing the risk of them becoming victims once again.

(iii) *Register of employers.* With reference to the questions arising concerning the publication of the list of legal or physical persons or entities found to be responsible for using slave labour (known as the “dirty list”), the Committee observes that, following appeals to find it unconstitutional, the Supreme Federal Tribunal confirmed, on 14 September 2020, the constitutionality of the establishment, publication and updating of the list. The Government reiterates in this regard that persons and entities are included in the list only upon finalization of the administrative procedure relating to the violation reported, and that during this procedure employers benefit from constitutional procedural guarantees, such as the right to defence and respect for the principle of an adversarial procedure. Inclusion in the list is for a period of two years. The Committee notes, from the information available on the website of the Ministry of Labour and Social Welfare that, following its suspension in 2015 and 2016, the Ministry is continuing to update and publish the list every six months. The list published in October 2022 added 95 employers (66 persons and 29 legal persons or entities), bringing the total number of persons and entities on the list to 179.

The Committee emphasizes once again that this list is an information tool both for society as a whole and for enterprises, which are therefore in a better position to control and monitor their supply chains. The Committee notes in this regard the Government’s reference to the National Pact Institute for the Eradication of Slave Labour (InPacto), of which the member enterprises are committed to determining the commercial restrictions that are to be established with legal entities on the list. **The Committee therefore firmly encourages the Government to continue taking all the necessary measures to ensure that the list of physical and legal persons and entities recognized as being responsible for the use of labour in conditions akin to slavery is published regularly.**

(b) *Systematic and coordinated action.* Recalling that, because of its complexity, action to combat forced labour requires coordinated and concerted action by the public authorities and the involvement of civil society as a whole, the Committee previously requested the Government to provide information on the coordination activities of the National Commission for the Eradication of Slave Labour (CONATRAE) and on the implementation of the action envisaged in the second National Plan for the Eradication of Slave Labour (Plan II). The Government indicates that, despite the measures adopted since 1995, slave labour still persists in Brazil, and for this reason action to combat slave labour has been adopted at the level of a State policy. The Government reiterates that it is essential not only to raise the awareness of the Government authorities, but also the whole of the population of this issue. The Committee notes that CONATRAE, which has the mandate to support the implementation of Plan II and to propose measures for this purpose, approved the final evaluation report of the implementation of the Plan (a report drawn up with the assistance of the Office). According to the evaluation, nearly 70 per cent of the objectives set out in Plan II were achieved or partially achieved. In this context, CONATRAE has published a series of recommendations on the six pillars included in Plan II (including enforcement, prevention and the reintegration of victims). The Committee also takes due note of the creation of the SmartLab platform, through a joint initiative by the Ministry of Labour and the Office. This platform offers an observatory for the eradication of slave labour and trafficking in persons, which brings together all the information contained in the databases of the various authorities with competence for combating slave labour with a view to facilitating the effective management of public policies and programmes in this field.

The Committee requests the Government to continue taking the necessary measures to achieve all the objectives of the National Plan for the Eradication of Slave Labour (Plan II) and for the implementation of the recommendations made in this respect by CONATRAE and to provide information on this subject, with an indication of the results achieved and the difficulties encountered.

It also requests the Government to indicate the action taken by CONATRAE to ensure systematic, coherent and coordinated action to combat slave labour throughout the territory.

(c) *Action by the labour inspection services and labour courts.* The Committee previously requested the Government to strengthen the capacities of the labour inspection services and the labour courts. It emphasized on the key role played by the Special Mobile Inspection Group (GEFM) in the identification of cases of slave labour and by the labour investigation authorities which, through their action, have succeeded in imposing substantial fines for violations of labour legislation and compensation for the moral damage suffered by workers and the collective moral prejudice suffered by society. The Committee notes the Government's indication that, since the beginning of its operations in May 1995, the GEFM has released over 59,000 workers from situations of slave labour and that over 126 million reais have been received by workers for the wages and compensation due. It adds that the experience acquired by the GEFM and its operating methods have been presented in the context of the training provided to the Regional Labour and Employment Superintendences (SRTEs), which are now developing their own programmes to combat slavery-like labour. There are now more operations of the SRTEs than of the GEFM, which acts in a subsidiary capacity in cases where operations are urgent, complex or dangerous (54 and 46 per cent respectively in 2020). The Government adds that, following the adoption of Decree No. 1.293/2017, the labour inspection services adopted Directive No. 139 in 2018 reaffirming that inspections for the eradication of slave labour are coordinated by the Labour Inspection Secretariat (SIT) and establishing a non-exhaustive and non-exclusive list of indicators to be verified in the cases of suspected slave labour. The Government indicates that 272 operations were carried out in 2019, resulting in the release of 1,054 workers, of whom 655 were in the agricultural sector. In 2020, despite the social distancing measures related to the COVID-19 pandemic, operations continued with 276 being undertaken, resulting in the release of 936 workers. According to the assessment report of 2020 on the work of the labour inspection services in Brazil for the eradication of labour akin to slavery, 78 per cent of the workers released were in the rural sector (particularly in coffee cultivation and the production of vegetable carbon) and there was an increase in the urban sector.

The Committee notes the reference by the ITUC to the dismantling of mechanisms established in the past to combat slave labour. It refers in particular to the drastic reduction in the annual budget allocated by the federal government to action to combat slave labour; the lack of resources of labour prosecutors, who are not able to carry out investigations in the cases referred to them; and the shortage of federal labour inspectors. According to the ITUC, only 20 per cent of reported cases are investigated and the existence of slave labour is only proved in 45 per cent of those cases. ANAMATRA comes to the same conclusion and emphasizes that budget cuts have been stepped up since 2019 and that in 2021 the budget announced for inspections and action to combat slave labour was the lowest for the past seven years, with a cut of 47.3 per cent.

The Committee recalls that, as a result of their inter-institutional composition (labour inspectors and representatives of the labour prosecution services, the federal police and the federal prosecution services), the GEFM and now the SRTEs are a vital link in action to combat slave labour, not only through the release of workers from situations of forced labour, but also through the gathering of evidence which can be used to initiate civil and criminal prosecutions against the perpetrators of these practices. ***While noting certain of the measures adopted, the Committee urges the Government to intensify its efforts to take the necessary measures to provide the labour inspection services, and particularly the GEFM, with sufficient human and financial resources to be able to carry out their mission throughout the territory, and to reinforce the means of action of the labour investigation and prosecution authorities. The Committee requests the Government to provide information on the measures adopted in this respect and specify the number of operations undertaken, the number of workers released, the sectors concerned, the fines imposed and the compensation granted.***

(d) *Imposition of criminal penalties.* The Committee previously noted the absence of specific information on the rulings handed down by the federal judiciary under section 149 of the Criminal Code.

The Committee notes the Government's indication in its report that 951 judicial proceedings were initiated between 2001 and 2020 under section 149 of the Criminal Code. It also provides information relating to seven judicial decisions in which persons were convicted (one in 2010, one in 2017, three in 2019 and two in 2020). The Committee notes the indication by the CUT in its observations that, although many judicial proceedings are opened under section 149 of the Criminal Code, there are few convictions. The Committee also observes that, in its 2021 report on the situation of human rights in Brazil, the Inter-American Commission on Human Rights (IACHR) notes with concern that, even though the large number of workers liberated since 1995 and the sums paid to them point to fairly positive outcomes, related criminal convictions are still rare and there have been relatively few convictions for "exploiting labour under conditions akin to slavery". The Committee recalls in this regard that, in accordance with Article 25 of the Convention, really adequate penalties shall be strictly enforced on persons for the exaction of forced labour. ***The Committee therefore requests the Government to provide specific information on the number of cases related to section 149 of the Criminal Code that are currently before the federal prosecution services, the number of judicial proceedings initiated, the number of convictions and the nature of the penalties imposed. The Committee also requests the Government to indicate the measures taken to reinforce coordination and collaboration between the labour inspection, the police, the labour prosecution services and the federal prosecution services for the gathering of evidence with a view to initiating judicial proceedings and prosecuting those suspected of the exaction of forced labour and, if they are found guilty, imposing criminal penalties on them that are commensurate with the crime committed.***

(e) *Protection and rehabilitation of victims.* The Committee notes that the Government is continuing to provide emergency and medium-term assistance to victims of forced labour with a view to facilitating their reintegration (particularly through the provision of unemployment benefit corresponding to three minimum wages). ***The Committee requests the Government to continue taking measures to protect and assist victims of forced labour and facilitate their social rehabilitation and to provide detailed information on the specific measures adopted in this respect. The Committee also requests the Government to provide information on the action taken to raise the awareness of workers of the risks that arise in the regions most affected by forced labour.***

The Committee is raising other matters in a request addressed directly to the Government.

Cambodia

Forced Labour Convention, 1930 (No. 29) (ratification: 1969)

Previous comment

Articles 1(1), 2(1) and 25 of the Convention. 1. *Trafficking in persons.* The Committee previously requested the Government to continue to take measures to ensure that thorough investigations and prosecutions are carried out in cases of trafficking in persons, and to provide information on the measures taken to protect and assist victims of trafficking.

The Government indicates in its report that, according to the 2019 report of the National Committee for Counter Trafficking (NCCT), the results of the fight against trafficking in persons for forced labour and sexual exploitation demonstrate progress, as compared to 2018. In 2019, legal proceedings were initiated in 103 cases, convictions were handed down in 63 cases and 140 perpetrators were sentenced to imprisonment. The Government also states that the NCCT conducted 163 training courses, benefiting 6,894 participants to strengthen the capacity of focal points and law enforcement officers relating to issues such as trafficking in persons, safe migration and victim identification. In addition, 37 workshops on law enforcement in the area of trafficking in persons were held, with 3,160 participants.

The Government also refers to the adoption of the National Strategic Plan for Counter Trafficking in Persons 2019-23, on the basis of which it commits to protect identified victims of trafficking and to expand access to information and social services, including psychological support, legal assistance, financial support, and employment and documentation assistance, in order to encourage long-term integration. The Committee notes in this regard that the National Strategic Plan 2019-23 includes four strategic objectives, namely: (i) strengthening cooperation; (ii) promoting prevention; (iii) promoting law enforcement; and (iv) strengthening the protection of victims.

The Committee further notes that, in its concluding observations of 18 May 2022, the United Nations Human Rights Committee expressed concerns about reports of a lack of adequate protection for victims of trafficking, despite the significant efforts made to eliminate trafficking in persons (CCPR/C/KHM/CO/3, paragraph 30). ***The Committee encourages the Government to pursue its efforts to prevent and combat trafficking in persons and requests it to continue to provide information on the number of cases of trafficking identified and investigated, as well as on the number of convictions handed down and the penalties imposed on perpetrators. The Committee hopes that the Government will take the necessary measures to implement the four strategic objectives of the National Strategic Plan for Counter Trafficking in Persons 2019-23 and requests it to provide information on the assessment of the measures taken, the results achieved and the difficulties encountered. Lastly, the Committee requests the Government to pursue its efforts to provide assistance and protection to victims of trafficking, and to indicate the measures taken in this regard and the number of victims who have benefited from such measures.***

2. *Vulnerability of migrant workers to conditions of forced labour.* The Committee previously requested the Government to continue its efforts to prevent migrant workers from Cambodia from becoming victims of abusive practices and conditions that could amount to forced labour in receiving countries, including Thailand and Malaysia. The Committee notes the Government's indication that it signed two Memorandums of Understanding (MoU) and a bilateral Agreement on labour and trafficking with Thailand, the principal destination country. It also signed the MoU on the Recruitment and Employment of Workers and the MoU on the Recruitment and Employment of Domestic Workers with Malaysia. It further states that the two Governments are working closely together to finalize the Standard Operating Procedures for sending Cambodian migrant workers to Malaysia. The Government reports that in 2020, there were 1,220,197 Cambodian migrant workers in Thailand and that through the action of the Committee for providing legalization to Cambodian workers who are staying and working in Thailand, approximately 1.07 million migrant workers were provided with proper legal documents to reside and work in Thailand by June 2018.

The Government also indicates that in 2020, 12 inspections were carried out in private recruitment agencies – two private agencies were given warnings and one had its operating licence revoked. The Ministry of Labour and Vocational Training received 21 complaints from migrant workers, of which 14 were resolved, four were cancelled and three are ongoing. The Government also refers to the adoption of the Cambodian Labour Migration Policy 2019-23, which has three main goals, namely strengthening migration governance, protecting and promoting the rights of migrant workers, and linking labour migration to socioeconomic development. In this framework, the Government will coordinate and collaborate with Myanmar, Laos and Thailand to develop a standard employment contract for migrant workers in the fishery sector. In addition, the Government has appointed a number of labour attachés to destination countries such as Thailand, Malaysia, South Korea and Japan in order to promote and protect the rights of migrant workers, including by ensuring that they are protected from labour exploitation and discrimination, and by assisting them regarding employment contracts, working conditions, legal documents and social protection.

The Committee also notes from the Rapid Assessment on Social and Health Impact of COVID-19 Among Returning Migrant Workers in Cambodia of the United Nations COVID-19 Response and Recovery Fund that 14.7 per cent of survey respondents reported some form of employment abuse,

including withholding of wages, false promises, excessive working hours, withholding of identity/travel documents and psychological abuse.

While taking due note of the measures taken by the Government to enhance the protection of Cambodian migrant workers and prevent them from being caught in abusive practices and conditions of work that could amount to forced labour, the Committee requests it to step up its efforts in this regard. The Committee requests the Government to continue to provide information on further measures taken in this regard and in particular with a view to: (i) providing training and information to candidates for migration on regular and safe recruitment channels, labour rights and the risks of forced labour associated with migration; (ii) ensuring that migrant workers have access to complaints mechanisms to assert their rights when they face exploitation and abusive practices and that they receive protection and compensation; and (iii) increasing the number of inspections undertaken to monitor the recruitment and placement agencies. Please provide information on the number of migrant workers assisted and abuses identified.

The Committee is raising other matters in a request addressed directly to the Government.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1999)

Previous comments: [observation](#) and [direct request](#)

Article 1(a) of the Convention. Sanctions involving the obligation to work as a punishment for the expression of political views or views ideologically opposed to the established political, social or economic system. Noting that penalties of imprisonment involve an obligation to work pursuant to section 68 of the Act on Prisons of 2011, the Committee previously referred to a number of provisions of the national legislation providing for penalties of imprisonment for certain activities, which fall within the scope of *Article 1(a)* of the Convention and thus have a bearing on the application of the Convention. The Committee expressed its deep concern over the detentions of, and prosecutions against members of the opposition party, NGO representatives, trade union members and human rights defenders, and deplored the imprisonment (involving compulsory prison labour) of members of the Cambodia National Rescue Party (CNRP), which was dissolved in November 2017.

The Committee requested the Government to review the following provisions of the national legislation and urged the Government to ensure that no penalties involving compulsory labour may be imposed pursuant to these provisions on persons who express political views or views opposed to the established political, economic or social system:

- (i) section 42 of the Act on Political Parties, as amended in 2017, according to which various offences related to the administration or management of a political party which has been dissolved, or whose activities have been suspended by a court, or whose registration has been refused, are punishable with sanctions of imprisonment for a term of up to one year;
- (ii) sections 494 and 495 on incitement to disturb public security by speech, writing, picture or any audio-visual communication in public or to the public, section 522 on publication of commentaries intended to unlawfully coerce judicial authorities, and section 523 on discrediting judicial decisions of the Penal Code of 2009;
- (iii) sections 305-309 on public defamation and insult; and
- (iv) provisions of the Penal Code relating to insult and criticism of the King (section 445 and section 437 bis introduced in 2018).

The Government indicates in its report that the freedom of citizens to express themselves peacefully and to engage in politics is guaranteed by national legislation. It states that any citizen can freely support any political party without being discriminated against, except in the case of the commission of criminal offences. It points out that the Government has no power to dissolve a political party; only the Supreme Court has the authority to do so. In addition, it states that section 42 of the Act

on Political Parties as amended provides a precise definition regarding the penalty for any person who “continues to administer or lead a political party that the Supreme Court has finally dissolved”. It adds that criticizing the letters and judgements of the Court with the aim of causing disorder or jeopardising the institutions of the Cambodian Government and disrespecting the Court’s judgement is deemed a criminal offence according to the Penal Code. Regarding the Cybercrime Act, the Government indicates that the adoption of the draft Act has been postponed due to the COVID-19 pandemic and that discussions on the draft Act are still ongoing.

The Committee notes that, in its concluding observations of 2022, the United Nations Human Rights Committee expressed concern over: (i) the persistent violation of the freedom of expression, including through reports of the closure of media outlets, the blockage of websites critical of the Government, and the use of criminal legal actions against journalists and human rights defenders; (ii) the arrest and detention of protesters; (iii) the dissolution of the CNRP in 2017 and of three other opposition parties in 2021; (iv) threats, harassment, arbitrary arrests and mass trials targeting members of the opposition; and (v) the persistent lack of an independent and impartial judiciary (CCPR/C/KHM/CO/3, paragraphs 20, 32, 34, 36 and 38). In this regard, the Committee also notes the information from a news release of 29 June 2022 from a number of United Nations experts according to which at least 43 defendants, who were linked to the CNRP, were convicted in June 2022 at a mass trial on charges of plotting and incitement, and sentenced to penalties of up to eight years’ imprisonment. The United Nations experts highlighted the existence of judicial flaws in these political trials and the lack of solid evidence supporting the charges.

The Committee further notes the concern of the United Nations human rights experts, in a statement of 24 August 2021, regarding sections 494 and 495 of the Penal Code, which are being used systematically to target and convict human rights defenders. In addition, the Special Rapporteur on the situation of human rights in Cambodia underlined, in a press release of 6 October 2021, intolerance towards online criticism of the COVID-19 response, which had led to several arrests and prosecutions, 25 human rights defenders imprisoned, nine opposition political figures sentenced to up to 25 years, and 50 reported instances of harassment of journalists in 2021.

The Committee **deeply deplores** the continued use of the provisions of the national legislation to arrest, prosecute and convict human rights defenders, opposition members and journalists who express political views or views ideologically opposed to the established political, social or economic system, leading to the imposition of penalties of imprisonment which involve compulsory prison labour. The Committee recalls that although some convictions have been made in accordance with the law of the State, they may fall within the scope of the Convention and thus be contrary to the Convention in so far as they allow persons holding or expressing political or ideological views to be compelled to work. The Committee emphasizes that limitations may be imposed by law on the rights and freedoms of expression which must be accepted as normal safeguards against their abuse (for example the purpose of securing due recognition and respect for the rights and freedoms of others or meeting the just requirements of public order). However, these limitations must meet strict standards of scrutiny regarding their justification and scope and the offences established in the legislation for that purpose should not be defined in such wide or general terms or applied by the judiciary in a way that they will lead to the imposition of penalties involving compulsory labour as a punishment for the expression of political or ideological views (see [2012 General Survey on the fundamental Conventions](#), paragraphs 302–304).

The Committee strongly urges the Government to take immediate and effective measures to ensure that persons who express political views or views opposed to the established system, including that of opposition members, human rights defenders and journalists, are not punished with penal sanctions involving compulsory labour, including compulsory prison labour. It urges the Government to review the wording of section 42 of the Act on Political Parties as well as sections 445, 437 bis, 494, 495, 522 and 523 of the Penal Code, by clearly restricting the scope of these provisions to situations

connected with the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour, so as to ensure that their application in practice does not lead to the violation of the Convention. The Committee also requests the Government to provide training to law enforcement bodies in this regard. The Committee once again requests the Government to provide a copy of the amendments to the Penal Code in 2018 which criminalize criticism of the King, as well as information on the practical application of the above-mentioned provisions of the Penal Code and the Act on Political Parties, including the facts that gave rise to the convictions and the nature of the sanctions imposed. The Committee expresses the firm hope that the Cybercrime Bill will be drafted and applied taking into account the principles evoked above and the obligations of the Government under the Convention.

Article 1(d) of the Convention. Punishment for participation in strikes. The Committee previously noted from the observations of the International Trade Union Confederation (ITUC) that Van Narong and Pel Voeun, two members of the Cambodian Labour Confederation (CLC), were sentenced to imprisonment for misdemeanour and malicious defamation under sections 311 and 312 of the Penal Code after taking part in a protest following the dismissal of union members and after filing a complaint against two workers for violence. It also noted the arrest and prosecution of four leaders of the Workers Friendship Union Federation for having organized an illegal strike, blocking traffic and disturbing public order. The Committee requested the Government to indicate the legislative provisions and factual arguments on the basis of which the above-mentioned individuals were arrested and prosecuted.

The Government indicates that Van Narong and Pel Voeun were convicted for misdemeanour and malicious defamation, and that their allegations of violence were fictitious. Regarding the arrest and prosecution of the four leaders of the Workers Friendship Union Federation, the Government indicates that it will update the Committee on any developments in this case. The Government also points out that individuals are prosecuted for the offences they have committed and that trade unionists do not enjoy any privilege of impunity.

The Committee notes that in a press release of 5 January 2022, a number of United Nations human rights experts referred to the arrest and detention of at least 29 casino union leaders and activists during a strike, out of which nine have so far been charged with incitement to commit a felony, under sections 494 and 495 of the Penal Code, and remain in custody while the others have been released. The Committee further notes the concerns expressed by United Nations experts in a press release of 16 February 2022 regarding the measures taken under COVID-19 used to impose restrictions on lawful and peaceful strikers. The United Nations experts deemed these restrictions to be unjustified, unnecessary and disproportionate.

The Committee urges the Government to take the necessary measures to ensure that the application of legislative provisions will not lead in practice to the imposition of sanctions involving compulsory labour (such as compulsory prison labour) on workers for the mere fact of organizing or peacefully participating in strikes, in conformity with Article 1(d) of the Convention. The Committee requests the Government to provide information on the progress made in this regard. The Committee also requests the Government to provide a copy of the court decision regarding the four leaders of the above-mentioned Workers Friendship Union Federation.

In light of the situation described above, the Committee is bound to observe that there has been no progress with regard to protecting freedom of expression in Cambodia and that opposition political activists, journalists, human rights defenders and social media activists who express dissent or criticism of the authorities are convicted and imprisoned under various provisions of the national legislation, including the Penal Code. The Committee deeply deplores the continued use of the provisions of the national legislation, including the Penal Code, to prosecute and convict persons who express their political views or views ideologically opposed to the established political, social or economic system, leading to penalties of imprisonment involving compulsory prison labour. The

Committee considers that this case meets the criteria set out in paragraph 114 of its General Report to be asked to come before the Conference.

[The Government is asked to supply full particulars to the Conference at its 111th Session and to reply in full to the present comments in 2023.]

Chad

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2(2)(a) of the Convention. Work in the general interest imposed in the context of compulsory military service. In its previous comments, the Committee noted that, according to section 14 of Ordinance No. 001/PCE/CEDNACVG/91 of 1991 reorganizing the armed forces within the framework of compulsory military service, conscripts who are fit for service are classified into two categories, one of which remains at the disposal of the military authorities for two years and may be called upon to perform work in the general interest by order of the Government. The Committee recalled that, to be excluded from the scope of application of the Convention and not considered to be forced labour, any work or service exacted under compulsory military service laws must be of a purely military character. The Committee therefore requested the Government to take measures to amend the provisions of section 14 and noted the Government's indication that those provisions would be brought into conformity with the Convention.

The Government once again indicates in its report that it will take the necessary measures to bring the provisions of section 14 of Ordinance No. 001/PCE/CEDNACVG/91 into conformity with the Convention. The Committee notes that section 14 of the Ordinance of 1991 reorganizing the armed forces was reproduced in section 32 of Act No. 012/PR/2006 of 10 March 2006 reorganizing the armed and security forces.

The Committee notes with **regret** the continued absence of measures bringing the provisions of the legislation on compulsory military service into conformity with the Convention, despite the Committee's requests in this regard over several years. **The Committee urges the Government to amend the legislation setting out the rules applicable to compulsory military service in order to limit the work or services exacted as part of compulsory military service to that of a purely military character, without including work in the general interest, in conformity with Article 2(2)(a) of the Convention. The Committee also requests the Government to provide a copy of the legislation currently in force governing compulsory military service. Lastly, it requests the Government to provide information on the number of persons performing work in the general interest by order of the Government and on the nature of such work.**

Article 2(2)(c). Work imposed by an administrative authority. For many years, the Committee has been drawing the Government's attention to the need to amend or repeal section 2 of Act No. 14 of 13 November 1959 authorizing the Government to take administrative measures for the relocation, internment or expulsion of persons whose activities constitute a danger for public order and security, under which the administrative authorities may impose work on persons subject to a prohibition of residence once they have completed their sentence. This section provides that a person with a criminal conviction involving the prohibition of residence may be used for work in the public interest for a period the duration of which is determined by order of the Prime Minister.

The Committee notes with **regret** that the Government reiterates in its report that it will take the necessary measures to amend or repeal section 2 of Act No. 14 of 1959, without reporting any progress in this regard. The Commission recalls that, under *Article 2(2)(c)* of the Convention, mandatory work exacted from convicts is not considered forced labour only when it is exacted as a consequence of a conviction in a court of law and subject to certain conditions. **Consequently, the Committee strongly urges the Government to take the necessary measures to amend or repeal section 2 of Act No. 14 of 13 November 1959 so that persons subjected to a prohibition of residence who have completed their sentence are not sentenced to work in the public interest by administrative authorities. In the meantime, the Committee requests the Government to provide information on the application in practice of section 2 of Act No. 14 of 1959, particularly on the number of sentences imposed under this section.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Costa Rica

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

Protocol of 2014 to the Forced Labour Convention, 1930 (ratification: 2020)

Previous comment

The Committee welcomes the ratification by Costa Rica of the Protocol of 2014 to the Forced Labour Convention, 1930. ***It hopes that the Government will provide detailed information on its application, in accordance with the report form adopted by the Governing Body.***

The Committee notes the observations of the Confederation of Workers Rerum Novarum (CTRN), received on 31 August 2021 and the Government's reply in that respect.

Articles 1(1), 2(1) and 25 of the Convention. Forced labour in plantations. Trafficking of Nicaraguan workers with the purpose of labour exploitation. The Committee notes that, in its observations, the CTRN refers to the situation of Nicaraguan plantation workers, mostly undocumented, who are victims of trafficking in persons for the workforce in pineapple and sugar cane plantations. The CTRN states that these workers are recruited by contractors, who provide them with false identity cards and offer them working conditions that are not fulfilled in practice, as they work up to 12 hours a day, without social security or conditions of occupational safety and health. Some workers do not receive the promised salary and therefore have no money for food or for their return trip to Nicaragua. Moreover, in some cases, they do not report the situation for fear of being deported.

The Committee notes that, in its reply to the CTRN's observations, the Government does not provide specific information on the situation of Nicaraguan migrant workers. However, the Committee duly notes the various measures taken to strengthen the legal and institutional framework to combat trafficking in persons referred to in its direct request. The Committee notes in particular the establishment of contact working groups by the Public Prosecutor's Office and the judicial and administrative police in the most vulnerable areas, identified as border areas and areas of lower socioeconomic development, to follow up and address the detection of cases of trafficking in persons.

Taking into account the situation of vulnerability to trafficking in persons for the purpose of labour exploitation in which many undocumented Nicaraguan workers may find themselves, the Committee requests the Government to take the necessary measures to: (i) ensure that the labour inspectorate can conduct inspections in plantations with a large presence of Nicaraguan workers; (ii) strengthen cooperation between the police, the Public Prosecutor's Office, in particular the Prosecutor's Office specialized in the crime of trafficking in persons, and the labour inspectorate to prevent, identify and investigate possible situations of trafficking of Nicaraguan nationals for the purpose of labour exploitation on pineapple and sugar plantations; (iii) facilitate access of Nicaraguan nationals to legal mechanisms so they can assert their rights; and (iv) provide these Nicaraguan nationals with immediate and comprehensive assistance and protection, independent of their migratory status. The Committee requests the Government to provide detailed information in this respect and also refers to its comments under the Labour Inspection (Agriculture) Convention, 1969 (No. 129).

The Committee is raising other matters in a request addressed directly to the Government.

Democratic Republic of the Congo

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

Previous comment

Articles 1(1), 2(1) and 25 of the Convention. Forced labour and sexual slavery in the context of the armed conflict. The Committee previously urged the Government to step up its efforts to put an end to the sexual violence committed against civilians, particularly women who are subjected to sexual exploitation, and to take immediate measures to ensure that appropriate criminal penalties are imposed on persons responsible for sexual slavery and forced labour.

The Government indicates in its report that it has duly noted the Committee's comments and that urgent measures are being adopted to put an end to these serious violations. The Government refers in particular to the introduction of a new Disarmament, Demobilization, Community Recovery and Stabilization Programme (P-DDRC-S) in 2021, and the adoption of a national strategy for this programme on 4 April 2022. The Government reports a decrease in killings of civilians and in insecurity, as well as the demobilization of combatants.

The Committee also notes the report of 4 March 2019 of the Office of the United Nations High Commissioner for Human Rights on the Democratic Republic of the Congo, in the context of the Working Group on the Universal Periodic Review, in which the United Nations Joint Human Rights Office noted that most armed groups used women and children in hostilities or as sex slaves and/or subjected them to forced marriage or forced labour. Women and children were also abducted, including for sexual purposes. Sexual violence was then used as a tactic of war, perpetrated in a systematic and particularly brutal manner (A/HRC/WG.6/33/COD/2, paragraph 45).

The Committee also notes that the United Nations Secretary-General, in his report of 29 March 2022 on conflict-related sexual violence, highlighted the fact that in 2021 the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) documented 1,016 cases of conflict-related sexual violence, perpetrated by armed groups and state actors. The Secretary-General refers to cases of sexual violence committed in the context of forced marriage or sexual slavery by the armed group *Union des patriotes pour la défense des citoyens*. He emphasizes that progress was made in combating impunity, and that in 2021 military courts convicted 118 members of the Armed Forces of the Democratic Republic of the Congo (FARDC), 28 members of the Congolese National Police and 10 members of armed groups for conflict-related sexual violence (S/2022/272, paragraphs 27–29). The Committee also notes that the United Nations Committee on Economic, Social and Cultural Rights (CESCR), in its concluding observations of 28 March 2022, expressed concern that although the country had decided to implement transitional justice mechanisms to address the serious human rights violations committed in the past, in particular sexual violence, these serious violations continue to be committed with impunity (E/C.12/COD/CO/6, paragraph 6).

The Committee is bound to express its **concern** at the persistent use of sexual slavery and forced labour of women in the context of armed conflict. ***While recognizing the complexity of the situation prevailing in the country and the presence of armed groups, the Committee urges the Government to intensify its efforts to put an end to the sexual slavery and forced labour of which civilians are victims in the context of armed conflict and to forestall and prevent these serious violations of the Convention. The Committee urges the Government to continue taking measures to combat impunity, by providing the competent bodies with the resources to conduct the necessary investigations, prosecute the perpetrators of these crimes and ensure that the victims of such acts are fully protected and obtain compensation. The Committee requests the Government to provide information on progress made in this respect.***

Article 25. Criminal penalties. In reply to the Committee's request concerning the adoption of adequate legislative provisions enabling effective and dissuasive criminal penalties to be imposed in practice on persons exacting forced labour, the Government indicates that the Bill putting an end to forced labour, which provides for more effective criminal penalties, is still awaiting adoption by Parliament. ***Recalling that it is crucial that the law establishes appropriate criminal penalties to punish persons responsible for all forms of forced labour, the Committee urges the Government to take effective measures in this regard in the context of the Bill putting an end to forced labour. The Committee trusts that this Bill will be adopted in the very near future, that it will establish criminal penalties which constitute an adequate deterrent and are proportional to the seriousness of the crime, and that it will be the subject of an extensive dissemination and awareness-raising campaign by the competent authorities. The Committee requests the Government to provide information on progress made in this regard and to send a copy of the Bill once it has been enacted.***

The Committee is raising other matters in a request addressed directly to the Government.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2001)

Previous comments: [observation](#) and [direct request](#)

Article 1(a) of the Convention. Imprisonment entailing compulsory labour imposed as a penalty for holding or expressing political views or views ideologically opposed to the established political, social or economic system. The Committee previously urged the Government to take the necessary steps to bring into conformity with the Convention certain provisions of the legislation under which activities which may come within the scope of *Article 1(a)* of the Convention are liable to incur criminal penalties (penal servitude) entailing compulsory labour (section 8 of the Criminal Code). The provisions in question are as follows:

- Criminal Code, sections 74, 75 and 77: injurious allegations and insults; sections 136 and 137: contempt towards members of the National Assembly, the Government and custodians of authority or law enforcement officers; section 199bis and ter: dissemination of false rumours liable to alarm the population; section 209: dissemination of tracts, bulletins or leaflets of foreign origin or inspiration liable to harm national interests; section 211(3): display in public places of drawings, posters, engravings, paintings, photographs and all objects or images liable to disturb public order.
- Act No. 96-002 of 22 June 1996 establishing arrangements for the exercise of freedom of the press, sections 73–76 of which refer to the Criminal Code for the definition and punishment of press-related offences.
- Legislative Ordinance No. 25-557 of 6 November 1959 on penalties to be imposed for infringements of general measures.
- Legislative Ordinances Nos 300 and 301 of 16 December 1963 on the punishment of offences against the head of State and foreign heads of State.

The Government indicates in its report that forced labour as a penalty established by the Criminal Code does not apply to the expression of political views or views ideologically opposed to the established political, social or economic system. Forced labour as a penalty is only imposed on persons guilty of the misappropriation of public funds. The Committee notes this information and recalls that among the penalties established by the Criminal Code, penal servitude (section 8) can entail compulsory labour and that the offences specified in the above-mentioned provisions of the legislation are liable to incur the penalty of penal servitude. The Committee is therefore bound to emphasize once again that the prohibition on imposing compulsory labour in the context of *Article 1(a)* of the Convention is not restricted to forced labour but applies to all work or service exacted from persons who hold or express

political views or views ideologically opposed to the established political, social or economic system, including where this work takes the form of prison labour imposed on convicted persons.

Furthermore, the Committee notes with **concern** that the United Nations (UN) High Commissioner for Human Rights, in her report of 15 July 2021 on the human rights situation in the Democratic Republic of the Congo, refers to attacks and threats against journalists, human rights defenders and other civil society actors, and also the violent repression of some peaceful demonstrations and the placement of restrictions on fundamental freedoms. The High Commissioner adds that at least 433 persons were subjected to arbitrary arrest or unlawful and arbitrary detention following their exercise of their right to freedom of opinion and expression, peaceful assembly or association (A/HRC/48/47, paragraphs 3 and 10). The Committee also notes Resolution 2612 adopted by the UN Security Council on 20 December 2021, in which the Security Council welcomed the measures taken by the Government to release political prisoners and investigate any disproportionate use of force by security forces on peaceful protesters.

The Committee further notes the adoption on 14 October 2022 of the law amending Act No. 96/002 of 22 June 1996 establishing arrangements for the exercise of freedom of the press. It also notes that Bills are under consideration concerning access to information, public demonstrations, protection of human rights defenders, and non-profit associations. The Committee recalls that the activities which must be protected, under *Article 1(a)* of the Convention, from punishment entailing forced or compulsory labour include activities involving the exercise of the freedom to express political or ideological views (orally, through the press or through other communication media), as well as various other generally recognized rights, such as the right of association and of assembly, through which citizens seek to secure the dissemination and acceptance of their views (see the [2012 General Survey on the fundamental Conventions](#), paragraphs 302 and 303).

The Committee once again urges the Government to amend or repeal the above-mentioned provisions of the Criminal Code, of Legislative Ordinance No. 25-557 of 6 November 1959, and of Legislative Ordinances Nos 300 and 301 of 16 December 1963, and to ensure that, in law and practice, no penalty entailing compulsory prison labour (including in the context of penal servitude) can be imposed as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. The Committee requests the Government to report on progress made in this regard.

As regards the Bills concerning access to information, public demonstrations, protection of human rights defenders, and non-profit associations, the Committee requests the Government to provide information on their current status. The Committee expresses the firm hope that the provisions of these texts will take account of the foregoing comments and the obligations entered into under the Convention. It also requests the Government to provide a copy of the law amending Act No. 96/002 of 22 June 1996 establishing arrangements for the exercise of freedom of the press.

Article 1(d). Imprisonment entailing compulsory labour imposed as a penalty for participating in strikes. The Committee previously asked the Government to take the necessary steps to amend the provisions of section 326 of the Labour Code so that imprisonment entailing compulsory labour cannot be imposed as a penalty for participating in a strike. Section 326 of the Labour Code allows the imposition of a fine and/or penal servitude of up to six months on any person in breach of section 315 of the Criminal Code, which regulates the conditions for exercising the right to stop work on a collective basis in the event of a collective labour dispute.

The Government indicates in its report that the penalties established in section 326 of the Labour Code, namely penal servitude of up to six months and a fine, are the only penalties which can be imposed in cases where a striking worker is convicted. The Committee notes with **regret** the absence of measures taken by the Government to amend section 326 of the Labour Code, despite the amendments made to the Labour Code in 2016 by Act No. 16/010 of 15 July 2016 amending and supplementing the Labour Code; the Government merely indicates that the possible penalties are penal servitude and a

fine. The Committee recalls that penal servitude entails compulsory labour for the convicted person (section 8 of the Criminal Code) and therefore comes within the scope of the Convention. The Committee emphasizes that, under *Article 1(d)* of the Convention, no penalty involving compulsory labour may be imposed on workers for participating peacefully in a strike. ***The Committee therefore expects the Government to take the necessary steps, and to take account of the foregoing comments and those made in relation to the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), to amend section 326 of the Labour Code, so that the legislation does not allow the penalty of penal servitude to be imposed on persons who have participated peacefully in a strike. The Committee requests the Government to provide information on progress made in this regard.***

Eritrea

Forced Labour Convention, 1930 (No. 29) (ratification: 2000)

Previous comment

Article 1(1) and 2(1) of the Convention. Compulsory national service. For a number of years, both the Committee and the Committee on the Application of Standards (in 2015 and 2018) have been urging the Government to review the Proclamation on National Service (No. 82 of 1995), which establishes a system of compulsory participation in national service for all citizens aged between 18 and 50 years, that goes beyond the exceptions authorized by the Convention. Compulsory national service includes active national service and service in the reserve army. Active national service, which concerns all citizens aged between 18 and 40 years, is divided into two periods: six months of active military service in the National Service Training Centre, and 12 months of active military service and development works in the military forces (section 8). According to section 5 of the Proclamation, in addition to military objectives, the national service includes “enhancing the economic development of the country”. The Committee also noted that, in practice, the conscription of all citizens for an indeterminate period had been institutionalized through their participation in different programmes. The Committee noted the Government’s indication that the national service was a necessary measure of self-defence in the context of the armed conflict with Ethiopia, but measures had been taken to start demobilizing conscripts. The Committee welcomed the peace agreement concluded between Ethiopia and Eritrea in 2018 and requested the Government to ensure that the work exacted from citizens within the framework of compulsory national service be limited to work of a purely military character, and that its duration responded only to the exigencies of the situation.

The Committee notes the Government’s indication that a large-scale demobilization in the context of national service has taken place, especially for women and other segments of society, so that many conscripts have been demobilized and are now under the civil service with an adequate salary. Most national service conscripts are assigned to civilian functions in the civil service or other public sectors and, at present, there is no national service beyond the statutory 18 months. The Committee further notes the Government’s indication that even though a peace agreement was concluded with Ethiopia, the Tigray’s People’s Liberation Front (TPLF) poses a threat to the sovereignty of the country, against which Eritrea is obliged to defend its territorial integrity. Therefore, conscripts might be called upon to perform military activities in explicit circumstances at times of emergency.

The Committee further observes that in its report of 6 May 2022, the United Nations Special Rapporteur on the situation of human rights in Eritrea points out in relation to the National Service Programme that: (i) while the 2018 peace agreement with Ethiopia brought hopes for reform of the national service programme, it has not led to demobilization, and no meaningful changes have ever been introduced; (ii) further to the involvement of Eritrean forces in the war in Ethiopia, the Government has justified indefinite conscription as necessary to defend the country against the TPLF; (iii) under the

national service programme thousands of citizens are subjected to a government-sponsored system of forced labour, working for very little pay, and without having any choice in their profession or work location; and (iv) draft evaders and deserters are routinely punished with detention in highly punitive conditions, and often subjected to torture and inhuman or degrading treatment (A/HRC/50/20, paragraphs 23, 31 and 22).

The Committee notes with **deep concern** that the above-mentioned information points to the reinstituted mobilization of citizens for indefinite periods of time, and that no reform of the Proclamation on National Service (No. 82 of 1995) has taken place with a view to limiting the nature of tasks conscripts are required to undertake under the active national service. In this respect, the Committee wishes to emphasize that in order to be excluded from the definition of forced labour, the compulsory labour required under the active national service must be limited to work of a purely military character (compulsory military service) or to tasks aimed at addressing exceptional situations, such as war or a natural disaster. In both cases, the conditions and duration of the work should strictly respond to the exigencies of the situation. The Committee reiterates that the exceptions provided for in the Convention under *Article 2(2)(a) and (d)* do not allow governments to use national service obligations to compel citizens to participate in development works or programmes or to undertake civil functions in the public services. This is also in violation of Article 1(b) of the Abolition of Forced Labour Convention, 1957 (No. 105), which prohibits the use of compulsory labour “as a method of mobilizing and using labour for purposes of economic development”.

The Committee recalls that in the context of the ILO Technical Advisory Mission that took place in Eritrea in July 2018, the Government indicated that the national service was critical to ensure the country's development and its very existence but was open to cooperating with the ILO to ensure the effective application of the Convention, including by moving forward with the demobilization process.

While acknowledging the current security concerns of the country, the Committee once again urges the Government to reform the national service with a view to ensuring that: (i) the work exacted from conscripts is limited to military training, or work of a purely military character or to tasks aimed at addressing exceptional situations, such as war or a natural disaster; and (ii) in practice the duration and conditions of such work respond specifically to the exigencies of the situation. The Committee also requests the Government to ensure that the assignation of persons under the national service obligation to undertake civil service functions takes place on a voluntary basis. The Committee reminds the Government that it may avail itself of ILO technical assistance in this regard.

The Committee is addressing other issues in a request addressed directly to the Government.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2000)

Previous comments: [observation](#) and [direct request](#)

Article 1(a) of the Convention. Sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. For a number of years, the Committee has been requesting the Government to take the necessary measures to review the following legislative provisions, which could lead to the imposition of penalties of imprisonment, which involve compulsory prison labour pursuant to section 110(1) of the Transitional Penal Code, for acts through which citizens can express political views or opinions opposed to the established political system:

From Press Proclamation No. 90/1996:

- section 15(3), according to which a person who prints or reprints for an Eritrean newspaper or publication which does not have a permit, or which is prohibited from printing or reprinting shall be punishable with imprisonment from six months to one year, or a fine;
- section 15(4), pursuant to which a person who prints or disseminates a foreign newspaper or publication which has been prohibited from or not permitted entry to Eritrea shall be punishable with imprisonment from six months to one year, or a fine;
- section 15(10), according to which the editor-in-chief and the journalist who disrupts general peace by publishing inaccurate news shall be punishable to penalties ranging from simple imprisonment to a life sentence.

From Proclamation No. 73/1995: Proclamation to legally standardize and articulate religious institutions and activities:

- section 3(3), read together with section 11(2), pursuant to which the author of a religious publication that interferes directly or indirectly with government politics and creates public unrest shall be punishable by a fine or imprisonment for up to two years, or both.

The Committee notes that the Government reiterates in its report that the expression of political opinions or beliefs is not considered a crime in Eritrea and is safeguarded by section 8 of the Transitional Civil Code, and is only subject to restrictions provided by the law with regard to the rights of others and morality. The Government further indicates that section 404 of the Transitional Civil Code recognizes the right to form associations, that religious freedom is also guaranteed by the law, and that there shall be no interference with its exercise, as long as it is not utilized for political purposes and is not prejudicial to public order or morality. The Committee observes that the Government emphasizes that no citizen was arbitrarily convicted and sentenced to prison labour for expressing his or her political opinion or belief contrary to that of the Government.

In this regard, the Committee notes that in its report of June 2022 the United Nations (UN) Special Rapporteur on the situation of human rights in Eritrea refers to the systematic repression, prolonged and arbitrary detention of thousands of persons expressing dissenting opinions or being perceived as opposed to the Government (including leaders and members of religious groups, members of the political opposition, journalists, activists and draft evaders), without due process guarantees being observed (A/HRC/50/20 paragraphs 39 and 43). While the Committee notes the Government's indication that it strongly disagrees with the UN human rights reports, it observes that the concerns of the UN Special Rapporteur have also been shared by other UN entities, including the UN Human Rights Council in its resolution of June 2017 (A/HRC/35/L.13/Rev.1 paragraph 6) and the UN Human Rights Committee in its 2019 concluding observations (CCPR/C/ERI/CO/1 paragraph 39). More recently, in its Resolution of 30 June 2022, the UN Human Rights Council called on the Government to extend its efforts to protect and fulfil the rights to freedom of religion or belief, peaceful assembly, association, opinion and expression, including for members of the press (A/HRC/50/L.19 paragraph 5).

The Committee notes with **deep concern** the above-mentioned information which highlights the fact that persons expressing opinions and views opposed to the established political system appear to continue to be arrested and detained. The Committee once again recalls that *Article 1(a)* of the Convention protects persons who hold or express political views or views ideologically opposed to the established political, social, or economic system by prohibiting their punishment with penalties which involve compulsory labour, including sentences of imprisonment that entail compulsory labour. The Committee notes that the above-mentioned provisions of Press Proclamation No. 90/1996 and Proclamation No. 73/1995 are drafted in broad terms and their scope of application is not limited to situations of violence or incitement to violence, thereby allowing for their application to persons who peacefully express political views or views opposed to the established political system.

Therefore, the Committee once again urges the Government to take all necessary measures to review sections 15(3), (4) and (10) of Press Proclamation No. 90/1996 and section 3(3) of Proclamation No. 73/1995 to ensure that both in law and practice, no penalties involving compulsory prison labour can be imposed on persons for the peaceful expression of views ideologically opposed to the established political, social or economic system. In the meantime, the Committee requests the Government to provide information on the application in practice of the above-mentioned provisions.

Article 1(b). Compulsory national service for purposes of economic development. For a number of years, the Committee has urged the Government to reform its compulsory National Service programme, which contemplates among its objectives enhancing the economic development of the country using its human resources in a trained and organized manner (section 5 of the National Service Proclamation No. 82/1995).

The Committee notes the Government's indication that all forms of compulsory labour performed in Eritrea meet the criteria of minor communal services for the best interest of the community, including activities such as reforestation, soil and water conservation as well as reconstruction activities, and food security programmes. According to the Government, these activities are limited to what is strictly required by the exigencies of the situation in Eritrea and are indispensable for the livelihood of the people at large.

The Committee notes that the types of work indicated by the Government do not qualify as "minor services" of short duration and, rather, appear to be large-scale activities whose beneficiary is not only a single community but the whole population of a country. Therefore, imposing on citizens the obligation to perform such activities as part of their compulsory National Service constitutes a method of mobilizing labour for the purposes of economic development, which is prohibited by *Article 1(b)* of the Convention.

Referring also to its comments under the Forced Labour Convention, 1930 (No. 29), the Committee once again urges the Government to take all the necessary measures to review National Service Proclamation No. 82 and eliminate both in law and practice, the use of compulsory labour in the context of national service obligations which constitutes a method of mobilizing labour for the purposes of economic development. The Committee requests the Government to provide information on the number of persons under compulsory national service obligations who undertake works that contribute to the economic development of the country each year, and the length of such service.

Article 1(d) of the Convention. Penalties involving compulsory labour for participating in strikes. For a number of years, the Committee had been noting that pursuant to Labour Proclamation No. 118/2001, participation in unlawful strikes is considered an unfair labour practice (section 119(8)) punishable with fines, unless in certain cases the provisions of the Criminal Code provide for more severe penalties (section 144). In the case of public servants, failure to carry out the duties in a proper manner and to the prejudice of the public, or participation in a strike with the intention of disturbing public order are punishable with imprisonment not exceeding three months (sections 412 and 413 of the Transitional Penal Code, respectively). The Committee requested the Government to take measures to ensure that both in law and practice, persons organizing and participating peacefully in a strike are not punished with sentences of imprisonment, which involve compulsory prison labour.

The Committee notes the Government's indication that no civil servant has been punished under sections 412 and 413 of the Transitional Penal Code. The Government emphasises that section 413 shall only apply to persons who participate in unlawful strikes and does not affect workers who run peaceful strikes. The Government adds that it has not come across experiences of strike action and that, regardless of the legality of the strike action in question, no sanctions will be imposed on those persons who participate in strike action under sections 412 and 413 of the Transitional Penal Code.

The Committee recalls that in all cases and regardless of the legality of the strike action in question, any sanctions imposed should not be disproportionate to the seriousness of the violations

committed, and no sanctions involving compulsory labour can be imposed for the mere fact of organizing or peacefully participating in strikes.

Therefore, the Committee requests the Government to take the necessary measures to ensure that both in law and practice, no person can be sanctioned with penalties of imprisonment (involving compulsory prison labour) for participating peacefully in a strike. In the meantime, the Committee requests the Government to continue providing information on the application in practice of sections 412 and 413 of the Transitional Penal Code, including on the facts that have given rise to legal proceedings.

Eswatini

Forced Labour Convention, 1930 (No. 29) (ratification: 1978)

Previous comment

Articles 1(1), 2 and 25 of the Convention. 1. *Legislative developments.* The Committee notes the Government's indication, in its report, that the redrafting of the Employment Bill was finalized by the tripartite Labour Advisory Board, after technical comments were provided by the ILO. It notes, more particularly, that sections 19 to 21 of the Employment Bill prohibit forced labour and section 158(1)(b) of the Bill establishes the penalties in case of forced labour. The Committee notes that section 19 of the Bill, which refers to five situations in which the work or service imposed should not be considered forced labour, generally follows the exceptions under *Article 2(2)* of the Convention. It notes, however, that:

- (i) section 19(d) of the Bill provides that "communal services of a kind which are to be performed by the member of a community in the direct interest of the community and not being for the purposes of financial gain" do not constitute forced labour. In this regard, the Committee wishes to draw the Government's attention to the fact that section 19(d) of the Bill goes beyond *Article 2(2)(e)* of the Convention, which excludes from its scope *minor* communal services, provided they are "performed by the members of the community in the direct interest of the said community" and "that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services" (2012 General Survey on the fundamental Conventions, paragraph 281);
- (ii) section 19(e) of the Bill provides that "any work or service which forms part of the normal civic and cultural obligations of the citizens of a fully self-governing country" do not constitute forced labour. In this regard, the Committee wishes to draw the Government's attention to the fact that section 19(e) of the Bill goes beyond *Article 2(2)(b)* of the Convention as the exception of "normal civic obligations" provided for under this provision of the Convention should be understood in a very restrictive way; and
- (iii) section 158(1)(b) of the Bill provides that "exacting or imposing forced labour, or causing or permitting forced labour to be exacted or imposed" is punishable by a fine or imprisonment for a period not exceeding one year or both. The Committee observes that, according to this provision, a person committing the offence of forced labour may be sentenced to a fine only. It recalls that, pursuant to *Article 25* of the Convention, the exaction of forced or compulsory labour shall be punishable as a penal offence, and when the envisaged sanction consists of a fine or a short prison sentence it cannot be considered as an effective penalty of a dissuasive nature in view of the gravity of the offence (see the 2012 General Survey, paragraph 319).

The Committee notes the Government's indication that, in August 2021, the final draft of the Employment Bill was submitted to the Minister for Labour and Social Security and forwarded to the Office of the Attorney-General. The Bill will be then forwarded to the Cabinet for approval and to the

Parliament for adoption. The Government states that it is anticipated that the legislative process will be completed without any further delay, particularly taking into account the level and extent of consultations that have taken place within the Legislative Advisory Board. ***The Committee therefore expresses the firm hope that the Government will take into account the above comments and adopt the necessary measures to ensure that the final version of the Employment Bill fully complies with the provisions of the Convention, in particular by amending:***

- ***sections 19 (d) and (e) of the Bill in order to limit the scope of the exclusions from the definition of forced labour to: (i) minor communal services, while including a requirement to consult the members of the community or their direct representatives concerning the obligation to perform such minor community services; and (ii) "normal civic obligations" to be understood in a very restrictive way; and***
- ***section 158(1)(b) of the Bill in order to establish sufficiently dissuasive penalties of imprisonment for the exaction of forced labour.***

2. *Legislation concerning compulsory public works or services.* For a number of years, the Committee has been drawing the Government's attention to Swazi Administration Order No. 6 of 1998 which provides for the duty of Swazis to obey orders requiring participation in compulsory works, such as compulsory cultivation, anti-soil erosion works and the making, maintenance and protection of roads, enforceable with severe penalties for non-compliance. It previously noted that, despite the Government's indication that this Order had been declared null and void by the High Court of Swaziland (Case No. 2823/2000), such practices persisted, being rooted in the well-established and institutionalized customary law, in particular through the customary practice of *Kuhlehla* (rendering services to the local chief or to the King, such as ploughing the fields of traditional leaders), which was still practised and enforced with punitive measures for refusal to attend. While noting the Government's explanation that this customary practice was not compulsory, the Committee observed the absence of a text regulating the nature of this work or rules determining the conditions under which such work was required or organized. It requested the Government to take steps in order to explicitly set out in the legislation the voluntary nature of participation in the customary practice of *Kuhlehla*.

The Committee notes the Government's indication that the country has a dual legal system based on written Roman-Dutch common law and unwritten traditional and customary laws, as provided for under articles 252 and 258 of the Constitution (Act No. 1 of 2005). The Government adds that the customary practice of *Kuhlehla* forms part of the unwritten traditional and customary laws which therefore makes it impossible for the Government to adopt a text regulating this practice. The Government indicates that, in order to put an end to this issue, a new section 19(e) has been incorporated into the Employment Bill, in order to exclude from the definition of "forced labour" any work which forms part of the "cultural obligations" of the citizens. The Committee refers, in this regard, to its above comments regarding section 19(e) of the Employment Bill. The Committee notes with **concern** that despite its previous requests to the Government to ensure the voluntary nature of participation in work carried out pursuant to customary practices, such as *Kuhlehla*, the Government envisages explicitly excluding these practices from the scope of the legislation prohibiting forced labour. The Committee draws the Government's attention to the fact that, as long as customary practices, such as *Kuhlehla*, fail to meet the criteria of the exceptions to forced labour set out in Article 2 of the Convention for "minor communal services", "civic obligation" or "cases of emergency", they are incompatible with the Convention. ***The Committee therefore urges the Government to take the necessary steps to ensure compliance with the Convention, whether by ensuring the voluntary nature of participation in work carried out under traditional and customary laws, and more particularly under the customary practice of Kuhlehla, or by limiting the work exacted under such practices to the exceptions of the Convention. It requests the Government to provide information on any progress made in this regard. The Committee further requests the Government to provide information on the***

number of persons who have been working as a result of customary practices, including the practice of Kulehla, as well as on the type and duration of services carried out.

The Committee is raising other matters in a request addressed directly to the Government.

Ethiopia

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1999)

Previous comment

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for the expression of political or ideological views. For a number of years, the Committee has been referring to the following sections of the Criminal Code, under which penal sanctions involving compulsory prison labour may be imposed by virtue of section 111(1) of the Code, in circumstances covered by *Article 1(a)* of the Convention:

- sections 482(2) and 484(2): punishment of ringleaders, organizers or commanders of forbidden societies, meetings and assemblies;
- section 486(a): inciting the public through false rumours; and
- section 487(a): making, uttering, distributing or crying out seditious or threatening remarks or displaying images of a seditious or threatening nature in any public place or meeting (seditious demonstrations).

The Committee also referred to the broad definition of terrorism and the reference to “encouragement of terrorism” under section 6 of Anti-Terrorism Proclamation No. 652/2009, according to which any person who “publishes or causes the publication of a statement that is likely to be understood by some or all of the members of the public to whom it is published as a direct or indirect encouragement, or other inducement to them, to the commission or preparation or instigation of an act of terrorism is punishable with rigorous imprisonment from ten to 20 years”. The Committee noted with deep concern reports on the broad application of the above provisions and on the detentions of, and prosecutions against, members of the opposition parties and human rights defenders. It therefore requested the Government to amend the above-mentioned provisions so as to ensure that, in accordance with *Article 1(a)* of the Convention, persons who express political views or views ideologically opposed to the established political, social or economic system, cannot be sanctioned to imprisonment involving compulsory labour on the basis of these provisions.

The Committee notes that the Government merely reiterates in its report that the peaceful expression of views or opposition to the established political, social or economic system is a constitutionally respected right and nobody is subjected to forced or compulsory labour as a result of this. The Committee notes that the Government does not provide information on the review of the above-mentioned provisions of the Criminal Code nor on their application in practice.

The Committee nevertheless observes from the Compilation Report of the Office of the United Nations (UN) High Commissioner for Human Rights, of March 2019, that in 2018, the Government of Ethiopia lifted the state of emergency decree and released a number of political detainees, bloggers and other individuals who had been detained following their participation in protests in recent years (A/HRC/WG.6/33/ETH/2, paragraph 33). The Committee also notes from the Report of the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression of April 2020, that since 2018 the Government of Ethiopia has taken significant steps to identify and reform laws that were historically used to restrict freedom of expression. In this regard, the Committee notes that Anti-Terrorism Proclamation No. 652 of 2009 was repealed and replaced by the Proclamation for the Prevention and Suppression of Terrorism Crimes No. 1178 of 2020. The Committee observes that the preamble to this Act recognizes the need to replace the Anti-Terrorism Proclamation of 2009, which had

substantive and enforcement loopholes that had a negative effect on the rights and freedoms of citizens, with a law that adequately protects the rights and freedoms of individuals. The Committee welcomes the fact that new Proclamation No. 1176 of 2020 addresses some of its previous outstanding comments, for example by removing the reference to encouragement of terrorism under section 6 of the Anti-Terrorism Proclamation No. 652/2009. Moreover, new Proclamation No. 1176 of 2020 under section 4 provides for an exception to terrorist acts, by stating that “notwithstanding the provisions of section 3(1)(e) (on terrorist acts that seriously obstruct public or social service), obstruction of public service caused by a strike and the obstruction related to the institution or profession of the strikers or exercising rights recognized by law such as demonstration, assembly and similar rights shall not be deemed to be a terrorist act”. The Committee also takes due note of the adoption of Media Proclamation No. 1238/2021, which establishes that acts of defamation committed through the media shall result in civil liability and not criminal liability.

The Committee requests the Government to continue to take the necessary measures to ensure that both in law and practice no penalties involving compulsory labour can be imposed on persons for the peaceful expression of political views or views opposed to the established political, social or economic system. It therefore requests the Government to review the provisions of sections 482(2), 484(2), 486(a) and 487(a) of the Criminal Code to ensure compliance with the Convention by limiting the application of criminal sanctions to situations connected with the use of violence or incitement to violence. It requests the Government to provide information on any progress made in this regard, as well as information on the application in practice of the above-mentioned sections of the Criminal Code, including copies of any court decisions, specifying the penalties imposed and describing the facts that led to the convictions.

The Committee is raising other matters in a request addressed directly to the Government.

Fiji

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1974)

Previous comments: [observation](#) and [direct request](#)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

The Committee notes the [discussion](#) that was held by the Committee on the Application of Standards at the 110th Session of the International Labour Conference (June 2022) regarding the application of the Convention. The Committee observes that the Conference Committee noted with deep concern the repeated failure of the Government to bring its national legislative framework into conformity with the Convention so as to allow trade unionists to exercise their rights to free assembly and free speech without the threat of penal sanctions involving compulsory labour. The Conference Committee also deplored the systematic use of penal sanctions against workers and their representatives. The Conference Committee urged the Government to take effective, urgent and time-bound measures to amend the corresponding legislation.

The Committee notes the observations of the International Organisation of Employers (IOE) received on 25 August 2022, the observations of the International Trade Union Confederation (ITUC) received on 1 September 2022, as well as those received from the Fiji Trades Union Congress (FTUC) received on 2 September 2022, all of which reiterate their concerns expressed during the discussion of the case by the Conference Committee.

The Committee notes with **deep regret** that the Government merely indicates in its report that it maintains its stance as reflected in its report submitted to the Committee in 2021 and that there have

been no amendments to the Public Order Act and the Crimes Act. **Therefore, in line with the Conference Committee's conclusions, the Committee urges the Government to take immediate and effective measures to amend the legislation referred to in its previous comments which read as follows:**

Article 1(a) of the Convention. Sanctions of imprisonment involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. The Committee previously noted the following legislative provisions, which are worded in such general terms that may lead to the imposition of penalties involving compulsory labour (by virtue of section 43(1) of the Prisons and Corrections Act 2006) for activities that could be linked to the expression of political views or views ideologically opposed to the established political, social and economic order:

Public Order Act (POA), as amended by the Public Order (Amendment) Decree 2012:

- Section 14, which provides for sanctions of imprisonment for up to three years for using threatening, abusive or insulting words in any public place or any meeting, or behaves with the intent to provoke a breach of peace or whereby such a breach is likely to be occasioned; and having been given by any police officer any directions to disperse or to prevent obstruction or for the purpose of keeping order in any public place, without lawful excuse, contravenes or fails to obey such direction.
- Section 17, which provides for sanctions of imprisonment for up to 10 years for spreading any report or making any statement, which is likely to undermine or sabotage, or attempt to undermine or sabotage the economy or financial integrity of Fiji.

Crimes Act 1999:

- Section 67(b), (c) and (d), which provides for sanctions of imprisonment for seven years for uttering any seditious words; printing, publishing, selling, offering for sale, distributing or reproducing any seditious publication; or importing any seditious publication.

The Committee notes that the Government indicates in its report that the Public Order Act is in place to ensure the safety of people from acts of terrorism, racial riots, religious and ethnic vilification, hate speech and economic sabotage.

The Committee recalls that the Convention protects persons who express political views or views ideologically opposed to the established political, social or economic system by establishing that in the context of these activities they cannot be punished by sanctions involving an obligation to work. The range of activities protected include the right to freedom of expression exercised orally or through the press and other communications media, as well as the right of association and of assembly, through which citizens seek to secure the dissemination and acceptance of their views. While recognizing that certain limitations may be imposed on these rights as normal safeguards for public order to protect society, such limitations must be strictly within the framework of the law. In this respect, the protection provided for by the Convention does not extend to persons who use violence, incite to violence or engage in preparatory acts aimed at violence.

In this respect, the Committee observes that in its comments under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), it noted the allegations of the International Trade Union Confederation (ITUC) and the Fiji Trades Union Congress (FTUC) denouncing that permissions for union meetings and public gatherings continued to be arbitrarily refused, and that section 8 of the POA (as amended by the 2012 Decree) has been increasingly used to interfere in, prevent and frustrate trade union meetings and assemblies. The Committee notes in this regard that according to section 10 of the POA, a person who takes part in a meeting or procession for which no permit has been issued or in contravention of the provisions of the POA is liable to a prison sentence (involving compulsory prison labour).

Therefore, the Committee requests the Government to review sections 10, 14 and 17 of the POA and section 67(b), (c) and (d) of the Crimes Act to ensure that, both in law and practice, persons who express political views or views opposed to the established political, social and economic system, including through the exercise of their right to freedom of expression or assembly, are not liable to penal sanctions involving compulsory labour, including compulsory prison labour. The Committee further requests the Government to provide information on the manner in which the above-mentioned legislative provisions are applied in practice, including information on the number of prosecutions initiated, convictions handed down, specific penalties applied and on the facts that led to the convictions, as well as information on the grounds on which permits for public meetings and gatherings are granted or refused.

Article 1(d) of the Convention. Penal sanctions involving compulsory labour for having participated in strikes. The Committee previously noted that, according to section 191 BQ (1) of the Employment Relations (Amendment) Act 2015, breaking an employment contract for the provision of essential service and industry, knowing or having reasonable cause to believe that such breaking, either alone or in combination with others, will deprive the public wholly or to a great extent of such service or industry or substantially diminish its enjoyment, constitutes an offence. According to section 256(a) of the Employment Relations Promulgation 2007, such an offence is punishable with imprisonment for up to two years (involving compulsory labour by virtue of section 43(1) of the Prisons and Corrections Act 2006). In its report, the Government indicates that it has taken note of the Committee's comment in this regard.

The Committee recalls that *Article 1(d)* of the Convention sets forth the principle that no sanctions involving compulsory labour, including compulsory prison labour, may be imposed on persons for the mere fact of peacefully participating in a strike. The Committee has indicated that when sanctions involving compulsory labour may exist for impairing or endangering the operation of essential services, this should be limited to situations where there is an effective danger, not mere inconvenience (2007 General Survey on the eradication of forced labour, paragraph 175).

Referring to its comments under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) in relation to the need to review the list of essential services and the limitations on the right to strike in essential services, the Committee requests the Government to take the necessary measures to ensure that, both in law and in practice, no persons may be subject to sanctions involving compulsory labour for peacefully participating in strikes. In this regard, the Committee requests the Government provide information on the application in practice of section 191 BQ (1) of the Employment Relations (Amendment) Act 2015, including copies of any relevant court decision, indicating the grounds for prosecution and the penalties imposed, in order to enable the Committee to assess its scope of application.

Ghana

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1958)

Previous comment

Article 1(c). Disciplinary measures applicable to seafarers. The Committee previously requested the Government to take measures to review the following provisions of the Merchant Shipping Act, 2003 (ACT 645), which provide for disciplinary offences punishable with penal sanctions involving compulsory prison labour (by virtue of section 42(1) of the Prison Service Act, 1972):

- Section 168(1)(b): the seafarer or apprentice who wilfully disobeys any lawful command is liable to imprisonment for a term not exceeding one month.
- Section 168(1)(e): the seafarer or apprentice who conspires with any member of a crew to disobey any lawful command, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage is liable to a fine or imprisonment for a term not exceeding six months or to both.
- Section 169(1): the seafarer or the apprentice who deserts ship is liable to imprisonment for a term not exceeding two months.
- Section 169(2): the seafarer or apprentice who neglects or refuses without reasonable cause to join the ship, proceed to sea on the ship, is absent without leave at any time within the period of 24 hours immediately before the ship sails or at any time from the ship or duty without sufficient reason is liable to a term of imprisonment not exceeding two months.

The Committee notes that the Government indicates in its report that the above-mentioned provisions have not been enforced in the country against any seafarer for breach of labour discipline. The Government adds that provisions have been made in the 2023 workplan of the Ghana Maritime Authority to review the Ghana Shipping Act. The Committee recalls in this regard that *Article 1(c)* of the Convention prohibits the imposition of sanctions involving compulsory labour in respect of breaches of

labour discipline. Sanctions involving an obligation to perform work may be imposed only in cases where the safety of the ship or the life or health of the persons on board is endangered. ***The Committee once again requests the Government to take the necessary measures to review, without delay, sections 168(1)(b) and (e), and 169(1) and (2) of the Merchant Shipping Act so as to ensure that the law is in conformity with the Convention and the indicated practice.***

The Committee is raising other issues in a direct request addressed directly to the Government.

Guatemala

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1959)

Previous comment

Article 1(c) and (d) of the Convention. Criminal penalties involving compulsory labour imposed for breaches of labour discipline or for participating in strikes. For many years the Committee has been asking the Government to amend the following sections of the Criminal Code, which establish prison sentences involving compulsory labour (in accordance with section 47 of the Criminal Code and section 17 of the Prisons Act) and can be imposed as a means of labour discipline or for participation in a strike:

- section 390(2), which provides that any person committing an act intended to paralyse or disrupt an enterprise that contributes to the economic development of the country shall be liable to imprisonment of one to five years;
- section 419, which provides that any public servant or employee who fails or refuses to carry out, or delays carrying out, any duty pertaining to his/her position or office, shall be liable to imprisonment of one to three years; and
- section 430, which provides that public servants, public employees and other employees or members of the staff of service enterprises who collectively abandon their posts, work or service, shall be liable to imprisonment of six months to two years.

The Committee notes the Government's indication in its report that the participation of prisoners in prison labour is voluntary. However, the Committee recalls that both the Criminal Code and the Prisons Act provide for compulsory work for all prisoners, referring to such work as an obligation and a duty.

The Committee notes that, in the context of the 2013 road map adopted as follow-up to the complaint examined by the Governing Body regarding the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Legislation and Labour Policy Subcommittee of the National Tripartite Committee on Labour Relations and Freedom of Association discussed on several occasions the amendment of the above-mentioned provisions of the Criminal Code with a view to taking the comments of the present Committee into account. It notes that, in the context of the discussion in relation to the follow-up on the implementation of the road map during the 346th Session of Governing Body of the ILO, the Government indicated that in October 2022 the President of the Republic submitted to the Congress of the Republic a legislative initiative containing the texts reviewing sections 390(2) and 430 of the Criminal Code that were approved on a tripartite basis in March 2018 and September 2022.

The Committee refers to its comments on Convention No. 87, and expects that the Bill amending sections 390(2) and 430 of the Criminal Code will be adopted without delay so as to limit the scope of these provisions to prevent the imposition of criminal penalties involving compulsory labour on persons who participate in a strike or for a breach of labour discipline. The Committee requests the Government to continue providing information on progress made in this respect. The Committee also once again requests the Government to take steps to amend section 419 of the Criminal Code.

The Committee is raising other matters in a request addressed directly to the Government.

Iraq

Forced Labour Convention, 1930 (No. 29) (ratification: 1962)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. In its earlier comments, the Committee noted the adoption of Anti-Trafficking Law No. 28 of 2012, which contains a detailed definition of the constitutive elements of the crime of trafficking in persons, criminalizes trafficking in persons for sexual exploitation and forced labour, and establishes prison sentences of up to 15 years. The Committee noted that, according to the 2015 concluding observation of the United Nations (UN) Human Rights Committee, trafficking in persons and forced labour remain significant problems in Iraq. The Human Rights Committee recommended that the Government ensure that all cases of human trafficking and forced labour are thoroughly investigated; that perpetrators are brought to justice; and that victims receive full reparation and means of protection, including access to adequately resourced shelters. It should also adopt the measures necessary to guarantee that victims, in particular of trafficking for the purpose of sexual exploitation, are not punished for activities carried out as a result of having been subjected to trafficking.

The Committee notes the Government's indication in its report that pursuant to section 6 of the Labour Code of 2015, forced labour in all its forms, including trafficking in persons and slavery, is prohibited. The Government also refers to the Anti-Trafficking Law No. 28 of 2012, under which sexual exploitation and forced labour are punishable with imprisonment of up to 15 years. The Committee notes the absence of information in the Government's report on the measures taken to combat trafficking in persons and protect victims of trafficking. The Committee notes, moreover, that according to several reports of the United Nations, including the UN Human Rights Council, in June 2016 (A/HRC/32/CRP.2, paragraphs 54–126), there is a significant level of trafficking of Yazidi women and girls for both sexual and labour exploitation in the country. The Committee also observes that in its Resolution No. 2388 of 2017, the Security Council reiterates its condemnation of all acts of trafficking, particularly the sale or trade in persons undertaken by the Islamic State of Iraq and the Levant (ISIL, also known as Da'esh), including of Yazidis and other persons belonging to religious and ethnic minorities (S/RES/2388, paragraph 10). ***While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee once again urges the Government to take the necessary measures to prevent, suppress and combat trafficking in persons. In this regard, the Committee once again requests the Government to provide information on the application in practice of Anti-Trafficking Law No. 28 of 2012, indicating the number of investigations and prosecutions carried out, and the specific penalties applied. Finally, the Committee requests the Government to provide information on the measures taken to protect victims of trafficking.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Kenya

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1964)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system. Penal Code and the Public Order Act. For many years, the Committee has been referring to certain provisions of the Penal Code and the Public Order Act, under which sentences of imprisonment may be imposed as a punishment for participating in certain meetings and gatherings or the publication, distribution or importation of certain kinds of publications. These sentences involve compulsory labour under Rule 86 of the Prison Rules. The Committee has been referring, in particular, to section 5 of the Public Order Act (Cap. 56), under which the police is entitled to control and direct the conduct of public gatherings and has extensive powers to stop or

prevent the holding of public gatherings, meetings and processions (section 5(8)–(10)), contraventions being punishable with imprisonment (section 5(11) and (17)), which involves compulsory labour. The Committee has been also referring to section 53 of the Penal Code, under which printing, publishing, distributing, offering for sale, etc. of any prohibited publication is punishable with imprisonment; under section 52 of the Penal Code any publication can be declared a prohibited publication if it is necessary in the interests of public order, public morality or public health. The Committee requested the Government to bring into conformity the above-mentioned provisions in order to limit their application to only acts of violence.

The Committee notes with **regret** an absence of information on this point in the Government's report. The Committee notes that sections 52 and 53 of the Penal Code and section 5(8), (10), (11) and (17) of the Public Order Act referred to above are not limited to acts of violence or incitement to violence and their application may lead to the imposition of penalties involving compulsory labour as a punishment for various types of non-violent actions relating to the expression of views through certain kinds of publications and participation in public gatherings.

The Committee once again recalls that *Article 1(a)* of the Convention prohibits the use of any form of forced or compulsory labour, including compulsory prison labour, as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. Referring to paragraph 303 of its General Survey of 2012 on the fundamental Conventions, the Committee points out that the Convention does not prohibit punishment by penalties involving compulsory labour of persons who use violence, incite violence or engage in preparatory acts aimed at violence. However, sanctions involving compulsory labour fall within the scope of the Convention if they enforce a prohibition of the peaceful expression of views or of opposition to the established political, social or economic system, whether the prohibition is imposed by law or by an administrative decision. Such views may be expressed orally or through the press or other communications media or through the exercise of the right of association (including the establishment of political parties or societies) or participation in meetings and demonstrations. ***The Committee therefore urges the Government to take the necessary measures to bring the provisions referred to above into conformity with the Convention (for example by limiting their scope to acts of violence or incitement to violence or by replacing sanctions involving compulsory labour with other kinds of sanctions, such as fines); and to report on the progress made in this regard. Pending the adoption of such amendments, the Committee requests the Government to provide information on the application in practice of sections 52 and 53 of the Penal Code and sections section 5(8), (10), (11) and (17) of the Public Order Act.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Kuwait

Forced Labour Convention, 1930 (No. 29) (ratification: 1968)

Previous comment

Articles 1(1) and 2(1) of the Convention. Protection of migrant workers against forced labour. 1. Migrant domestic workers. The Committee previously took note of Act No. 68/2015 on Employment of Domestic Workers, which establishes the specific obligations of employers with respect to recruitment, wages, hours of work, rest time and leave of domestic workers, as well as a complaints mechanism, and requested the Government to ensure its application. The Committee notes the Government's indication in its report of the adoption of Ministerial Decision 22/2022 on the Executive Regulations of Act No. 68 of 2015, which further regulates the recruitment, working conditions, transfer of employment and repatriation of migrant domestic workers.

(a) Retention of passports. The Committee welcomes the enactment of section 23(7) of Ministerial Decision 22/2022, which prohibits employers from keeping in their possession any papers or personal identification documents belonging to the domestic worker, except with the worker's consent. The

Committee recalls that, in the past, it took note of cases of confiscation of passports of domestic workers by their employers. The Committee is of the view that given the intrinsic situation of vulnerability and dependence in which migrant domestic workers may find themselves, it cannot be excluded that domestic workers' consent to give the employer custody of their identification documents could be obtained under pressure or threat. The Committee recalls that the retention of passports is an element which increases the risk of domestic workers not being able to leave their employment when they are victims of practices that could amount to forced labour. **Therefore, the Committee requests the Government to ensure that the provisions of section 23(7) of Ministerial Decision 22/2022 are implemented in practice by guaranteeing that under no circumstances can employers retain identification documents without the domestic workers' freely given consent, and that such workers are informed of and can readily access complaints mechanisms to report situations of illegal passport retention by the employer. To this extent, the Committee requests the Government to provide statistics on the number of complaints lodged by migrant domestic workers in this regard and the corresponding penalties imposed on employers.**

(b) *Transfer of employment and absconding workers.* The Committee notes that section 38 of Ministerial Decision 22/2022 provides that, for reasons of public interest, the Public Authority for Manpower (PAM) can issue an order to transfer the domestic worker from an employer to another if: the employer dies; the domestic worker requests to be transferred to the employer's husband or wife in the event of separation; the employer definitively leaves the country; the female domestic worker marries a husband in the country; the female domestic worker requests to be transferred to her husband's residence; the employer fails to meet the eligibility conditions or a final judgment sentences him/her to prison; and an act, statement or gesture of sexual connotation is proven to be committed by the employer or those living with him/her against the domestic worker. The Committee further notes that the Government indicates that the transfer should be made with the approval of the competent authority within the Ministry of Interior, which shall certify that the worker agrees to the transfer. However, the Committee notes with **concern** that section 38 of Ministerial Decision 22/2022 provides for restrictive and limited grounds for the PAM to issue an order of transfer of employment without the employer's consent. Hence, section 38 does not cover other situations of abusive working practices as grounds for a transfer of employment without the employers' consent, such as non-payment of wages, non-respect of established working hours or rest periods, or situations of physical or psychological violence without sexual connotation. The Committee also observes that, pursuant to section 16 of Act No. 68/2015, the domestic worker may not be able to voluntarily terminate the contract before its end (through notice of its termination two months in advance).

The Committee further notes that in its 2021 concluding observations, the United Nations Committee on Economic, Social and Cultural Rights expressed its concern at the continued reports of exploitation and abuse of migrant domestic workers by employers, and referred to the continued existence of the crime of "absconding" (unjustified discontinuation of work), which makes migrant workers vulnerable to abuse and forced labour (E/C.12/KWT/CO/3 paragraphs 20 and 22). In this respect, the Committee notes that section 51 of Act 68/2015 provides that, in the event a domestic worker absconds from her/his service post, the Ministry of Interior will take action to deport the worker to her/his country. It further notes that, according to section 35 of Ministerial Decision 22/2022, an employer is prevented from filing an absconding report against a domestic worker after the latter files a complaint to the competent department, provided that the domestic worker is registered among the residents of the migrant workers' accommodation centre. According to section 36 of this Ministerial Decision, the domestic worker's residence permit can be extended until the complaint is resolved, and he or she receives all due entitlements. Furthermore, pursuant to Ministerial Decree 27/2021, the employer of a worker who is absent without an excuse shall inform the PAM after seven days have passed from the date of the worker's absence. The notice submitted to the PAM must be displayed in a visible place at the workplace in order for the worker to be made aware of the notice, and the employer

who submits the notice of the worker's unexcused absence is prohibited from allowing the worker to resume their work until an investigation into the incident is concluded (sections 49 and 50). The Committee notes the Government's indication that, in 2021, 994 complaints related to abandonment of work were under consideration by the courts.

The Committee observes that Act No. 68/2015 does not foresee the termination of the employment relation by the domestic worker before the expiry of the initial employment contract (the maximum duration of the contract not being provided for in the Act) without approval of the employer. Furthermore, as indicated above, Ministerial Decision 22/2022 provides for the possibility of the domestic worker to transfer employment without the employer's consent only in a few very specific cases. The Committee is of the view that these two circumstances increase the dependence of migrant domestic workers and their vulnerability to situations of abuse that could amount to forced labour. It recalls that the effect of statutory provisions preventing termination of employment of large duration by means of notice of reasonable length is to turn a contractual relationship based on the will of the parties into service by compulsion of law, and is thus incompatible with the Convention. **Therefore, the Committee requests the Government to take the necessary measures to enable migrant domestic workers to transfer their employment at certain intervals and after having given reasonable notice during the duration of the contract. It also requests the Government to continue taking measures to ensure that, both in law and practice, migrant domestic workers can access the necessary mechanisms to defend themselves against complaints of absconding in situations when their rights have not been respected, and to indicate how many absconding cases have been brought by employers under section 51 of Act No. 68/2015 and how they have been decided. It also requests the Government to provide information on the number of domestic workers who have left their employment and been repatriated to their country of origin.**

(c) *Law enforcement.* In response to the Committee's request for information on the application of Act No. 68/2015, the Government indicates that, since 2019, the PAM is the entity responsible for domestic workers. The PAM has the responsibility to sensitize society with respect to the rights and obligations derived from the employment of a domestic worker, and to raise awareness among domestic workers about their rights using information brochures in multiple languages. It also undertakes periodic inspections of recruitment agencies and offices of domestic workers and follows up on complaints to ensure effective compliance with Act No. 68/2015. The Government adds that, since 2020, employers who want to hire a foreign domestic worker must use the standardized labour contracts that have been approved by the competent authority.

The Government emphasizes that the PAM seeks to resolve complaints in an amicable manner. If complaints cannot be resolved amicably, the PAM forwards them to the competent court. In cases of infringement or violation of the rights of domestic workers confirmed by the PAM, the employer will be prevented from obtaining entry visas for a period of six months. The complaint shall be later referred to the competent court for the imposition of further sanctions corresponding to the degree and type of the infringement. In 2021, a total of 1,487 complaints were filed by domestic workers against an employer (1,150 of which were resolved amicably) and three were filed against a recruitment office or agency.

The Committee requests the Government to continue taking the necessary measures to ensure that migrant domestic workers enjoy their rights provided for in the legislation, and to facilitate their access to mechanisms to defend themselves against situations of exploitation and abuse that could amount to forced labour, as well as reprisals. It also requests the Government to take the necessary measures to ensure that migrant domestic workers who are victims of forced labour receive the necessary psychological, social, medical and legal assistance. Lastly, it requests the Government to provide information on: (1) the type of sanctions imposed by the PAM (in addition to the suspension of granting of entry visas to the employers for six months) and national courts on employers and/or recruitment agencies who infringe the labour rights of migrant domestic workers; and

(2) investigations and prosecutions undertaken in relation to situations of forced labour of migrant domestic workers.

2. *Migrant workers in private enterprises.* The Committee notes that, according to section 48 of Act No. 6/2010 concerning labour in the private sector, the worker shall have the right to terminate his or her work contract without notification if the employer does not abide by the terms of the contract or the provisions of the law; the worker was assaulted by either the employer or his deputy; continuing work would endanger his or her safety and health; the employer or his deputy committed an act of cheating or fraud with regard to work conditions; the employer has accused the worker of committing a punishable act and the final verdict acquitted the worker, or the employer or his deputy has committed an act that violates public morals against the worker.

The Committee further notes that, pursuant to section 1 of Administrative Decision No. 712/2017 on the transfer of employment for workers in small and medium-sized enterprises (SMEs), a transfer is permitted only within the SMEs sector, after three years of continuous employment and with the approval of the employer. It also notes that, pursuant to section 2 of Administrative Decision No. 842/2015, private sector workers who work on government-contracted projects are permitted to transfer only to another government-contracted project implemented by the same sponsor and only after the end of the contract. Transfer without permission of the employer is permitted only after three years from the issuance of the work permit. If the worker wishes to transfer prior to the end of this period without the consent of the original employer, he or she shall file a complaint with the PAM (section 6 of Administrative Decision No. 842/2015).

The Committee requests the Government to indicate whether migrant workers in private enterprises who have the right to terminate employment under the circumstances established in Act No. 6/2010 can also transfer employment without the permission of the employer and without being asked to leave the country. It also requests the Government to provide information on the number of complaints before the Public Authority of Manpower submitted by migrant private sector workers working for government-contracted projects, who wish to transfer employment without the consent of the original employer and before the end of the labour contract, as well as the outcome of such complaints. It requests the Government to indicate whether this procedure of transfer also applies with respect to migrant workers in small and medium enterprises.

The Committee is raising other issues in a direct request addressed directly to the Government.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1961)

[Previous comment](#)

Article 1(a) of the Convention. Penalties involving compulsory labour as a punishment for expressing political views. For many years, the Committee has been referring to Legislative Decree No.65 of 1979, which establishes a system of prior authorization for holding public meetings and gatherings (which may be refused without giving reasons, under section 6 of the Decree) and, in the event of violations, provides for a penalty of imprisonment which involves compulsory prison labour. According to section 63 of the Penal Code, compulsory labour is imposed on persons convicted to at least six months of imprisonment. The Committee noted that the Government had prepared a Bill on Public Meetings and Assemblies, which, under sections 10 and 15 read together, provide for sanctions of imprisonment of up to three years for holding meetings or demonstrations that damage the reputation of the State or call for breach of the public order. In reply to the Committee's request to review the provisions of that Bill, the Government indicates that it will not be adopted before being discussed and examined by members of the specialized committees at the Parliament, so as to bring it into conformity with the provisions of the Convention.

The Committee recalls that *Article 1(a)* of the Convention protects persons who express political views or views ideologically opposed to the established political, economic or social system by establishing that, in the context of these activities, they cannot be punished by sanctions involving an obligation to work. In this respect, the Committee wishes to emphasize the importance of the right to assembly as it is often through the exercise of this right that views opposing the established political order can be expressed. In ratifying this Convention, States have undertaken to guarantee persons who manifest their opposing views in a peaceful manner the protection afforded by the Convention.

Noting the absence of any further development in this respect, the Committee urges the Government to take the necessary measures to ensure that the national legislation regarding public meetings and assemblies is in conformity with the Convention and that no person holding or joining a peaceful public meeting or demonstration can be punished with sanctions involving compulsory labour. Pending the adoption of new legislation on public meetings and assemblies, the Committee requests the Government to provide information on the application in practice of Legislative Decree No. 65 of 1979 in relation to persons who hold or join public meetings or gatherings not authorized by the respective authority, including the legal proceedings initiated (indicating the facts and specific legal provisions that led to those proceedings), sentences handed down and penalties imposed.

Article 1(c) and (d). Disciplinary measures applicable to seafarers. Over a number of years, the Committee has been requesting the Government to review or amend sections 11, 12 and 13 of Legislative Decree No. 31 of 1980 under which breaches of labour discipline, including unauthorized absence, repeated disobedience and failure to return to the vessel, may be punished by imprisonment involving compulsory labour. The Committee notes the Government's indication that continuous consultations with the competent bodies have been undertaken on the application of the provisions of Decree No. 31 of 1980, to ensure that the penalty of imprisonment as a disciplinary measure is only applied with respect to extremely dangerous situations which threaten the ship and the lives and health of persons on board.

While noting the consultations undertaken to ensure that in practice no sanctions involving compulsory labour are imposed for breaches of labour discipline, the Committee requests the Government to take the necessary measures without delay to review Decree No. 31 of 1980 so that, both in law and practice, penalties involving compulsory labour are strictly limited to acts endangering the vessel or the life or health of persons on board.

The Committee is raising other issues in a request addressed directly to the Government.

Lebanon

Forced Labour Convention, 1930 (No. 29) (ratification: 1977)

Previous comment

The Committee notes with **deep concern** that the Government's report, due since 2018, has not been received. In light of its urgent appeal launched to the Government in 2021, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2018.

Articles 1(1) and 2(1) of the Convention. Vulnerable situation of migrant domestic workers to conditions of forced labour. For a number of years, the Committee has been expressing concern about the situation of migrant domestic workers who are excluded from the protection of the Labour Law and have a legal status tied to a particular employer under the *kafala* (sponsorship) system, which places workers at risk of exploitation and makes it difficult for them to leave abusive employers. The Committee urged the

Government to ensure that the Bill regulating the working conditions of migrant domestic workers be adopted in the very near future and to fully protect them from abusive practices and working conditions that amount to forced labour.

The Committee notes, from the observations made by the ITUC, that there are over 250,000 migrant domestic workers working in private households in Lebanon. The ITUC points out that, while the Government has formed a national steering committee on domestic work and discussed various draft policies covering migrant domestic workers, none was passed into law. Furthermore, the exclusion of domestic workers from labour legislation and social protection exacerbates the power imbalance between employer and employee created by the *kafala* system and their vulnerability to abuse, exploitation and forced labour. In that regard, the ITUC indicates that migrant domestic workers continue to report routine confiscation of their passports, long working hours, refusal by their employers to allow sufficient time off, forcible confinement to the workplace, poor living conditions, delayed or non-payment of wages, and verbal, physical and sexual abuse.

The Committee notes that a revised Standard Unified Contract (SUC) for the employment of domestic workers was adopted by the Ministry of Labour on 8 September 2020, which included new protections for domestic workers, such as the possibility to terminate their contract without the consent of their employer and other guarantees afforded to other workers, such as a 48-hour work week, a weekly rest day, overtime pay, sick pay, annual leave and the national minimum wage, with some permissible deductions for housing and food. It notes, however, that following a complaint made by the Syndicate of Owners of Recruitment Agencies before the administrative court, on 14 October 2020, the Shura Council (Council of State) decided to suspend the implementation of the SUC on the ground that it represented “severe damage” to the agencies’ interests.

In this regard, the Committee notes that, in their concluding observations, several United Nations treaty bodies expressed persistent concern about: (1) the suspension of the implementation of the revised SUC for migrant domestic workers; (2) the delay in the adoption of legislation to protect migrant domestic workers, who are mainly women from Africa and Asia; and (3) the situation of migrant domestic workers under the *kafala* system who are vulnerable to abusive working conditions, in particular delayed payment or even non-payment of wages, long working hours, denial of time off, withholding of their identity documents, forced confinement, bonded labour-type situations, and verbal, physical and sexual abuse, treatment that has intensified during the COVID-19 pandemic (CEDAW/C/LBN/CO/6, 1 March 2022, paragraph 49; CERD/C/LBN/CO/23-24, 1 September 2021, paragraph 24; and CCPR/C/LBN/CO/3, 9 May 2018, paragraph 39). In this regard, the Committee notes that, as recently highlighted by the ILO, the economic crisis faced by Lebanon combined with COVID-19 has exacerbated the socioeconomic precarity of women migrant domestic workers and their potential to be coerced into forced labour, in particular with regard to excessive working hours, unpaid wages, and being pushed into having an irregular legal status (ILO, Women Migrant Domestic Workers in Lebanon: A Gender Perspective, 2021, page 4).

While acknowledging the challenging circumstances currently faced by Lebanon, the Committee notes with **deep concern** that migrant domestic workers are still lacking adequate legal protection and continue to be subjected to abusive employer practices which might cause their employment to be transformed into situations that can amount to forced labour. ***The Committee therefore urges the Government to take the necessary measures, without delay, in order to provide migrant domestic workers with adequate legal protection, including by ensuring the effective implementation of the revised Standard Unified Contract and the adoption of the Bill regulating the working conditions of domestic workers, and to provide a copy of the legislation, once adopted. It requests the Government to provide information on any progress made in this regard, as well as on any legislative changes adopted or envisaged to review the kafala (sponsorship) system. The Committee also urges the Government to take the necessary measures to ensure that, in practice, migrant domestic workers who are victims of abusive practices and working conditions that amount to forced labour are provided with***

adequate protection and assistance as well as remedies. The Committee requests the Government to provide detailed information in this regard.

Article 25. Penal sanctions for the exaction of forced labour. The Committee previously noted several alleged obstacles faced by migrant domestic workers with regard to their access to justice, and urged the Government to take measures to ensure that employers who engage migrant domestic workers in situations amounting to forced labour are subject to really adequate and strictly enforced penalties. The Committee observed, in this regard, that section 569 of the Penal Code establishes penal sanctions against any individual who deprives another of their personal freedom, and that according to the information provided by the Government this section should apply to the exaction of forced labour.

The Committee notes that, in its observations, the ITUC points out the lack of accessible complaints mechanisms, lengthy judicial procedures and restrictive visa policies which dissuade many migrant domestic workers from filing or pursuing complaints against their employers. Even when migrant domestic workers file complaints, the police and judicial authorities regularly fail to treat abuses against domestic workers as crimes, and workers are often returned by the police to the employer that they sought to lodge a complaint against, or find themselves detained for not having legal residency status or because the employer has filed a counter-complaint against them for stealing. In the ITUC's view, a major obstacle to migrant domestic workers' access to justice is the limitations placed on their ability to remain in Lebanon after they have left their employer. As soon as a legal complaint is in process, the employer can terminate his or her sponsorship obligation rendering the migrant domestic worker an illegal resident.

The Committee also notes that, in their concluding observations, several United Nations treaty bodies expressed persistent concern about: (i) the fact that many migrant domestic workers are unaware of the remedies available to them in the event of a violation of their rights; (ii) the existence of barriers faced by migrant domestic workers when seeking to report abuses and the risk of imprisonment or deportation faced by migrant domestic workers who sue their employers, given the restrictive visa system; and (iii) the fact that perpetrators of violations go unpunished (CEDAW/C/LBN/CO/6, 1 March 2022, paragraph 15; CERD/C/LBN/CO/23-24, 1 September 2021, paragraph 26; and CCPR/C/LBN/CO/3, 9 May 2018, paragraph 39).

In this regard, the Committee recalls that, pursuant to Article 25 of the Convention, the exaction of forced or compulsory labour shall be punishable as a penal offence, and when the envisaged sanction consists of a fine or a short prison sentence it cannot be considered as an effective penalty of a dissuasive nature in view of the gravity of the offence (see [2012 General Survey on the fundamental Conventions](#), paragraph 319). ***Emphasizing that it is crucial that appropriate criminal penalties are imposed on perpetrators so that recourse to forced labour practices does not go unpunished, the Committee urges the Government to take the necessary measures to ensure that: (i) migrant domestic workers have access to justice in the event of a violation of their rights and are protected against any measures of retaliation or deportation; and (ii) sufficiently dissuasive penalties are applied to employers who engage migrant domestic workers in situations amounting to forced labour. The Committee requests the Government to provide information on the measures taken to strengthen the capacity of law enforcement bodies in this area, as well as on the number of cases of forced labour of migrant domestic workers investigated and prosecuted, the number of convictions handed down and the penalties imposed.***

In light of the situation described above, the Committee notes with deep concern the repeated failure of the Government to respond to the Committee's comments since 2018. The Committee must also express its deep concern that migrant domestic workers are not granted adequate legal protection and continue to be subjected to abusive employer practices, including delayed or non-payment of wages, withholding of their identity documents, denial of time off, forced confinement and verbal, physical and sexual abuse which might cause their employment to be transformed into forced

labour situations. Lastly, the Committee observes the existence of barriers faced by migrant domestic workers when seeking to report abuses and the fact that the perpetrators of violations go unpunished. The Committee considers that this case meets the criteria set out in paragraph 114 of its General Report to be asked to come before the Conference.

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to supply full particulars to the Conference at its 111th Session and to reply in full to the present comments in 2023.]

Liberia

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1962)

Previous comment: [direct request](#)

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. In its previous comments, the Committee requested the Government to indicate whether section 52(1)(b) of the Penal Law on sedition, which could punish certain forms of criticism of the Government with imprisonment (which may involve an obligation to work pursuant to section 34.14(1) of the Criminal Procedure Law), was still in force. The Committee notes the Penal Law of 1978, transmitted by the Government, which contains new provisions criminalizing sedition as well as criminal libel against the President with penalties of imprisonment (sections 11.11 and 11.12). The Committee notes with **satisfaction** that sections 11.11 and 11.12 have been repealed by the amendment to the Penal Law published on 26 February 2019, known as the Kamara Abdullah Kamara Act of Press Freedom.

The Committee is raising other matters in a request addressed directly to the Government.

Libya

Forced Labour Convention, 1930 (No. 29) (ratification: 1961)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1(1), 2(1) and 25 of the Convention. Situations of forced labour arising from the armed conflict. Trafficking of migrant workers. The Committee previously noted the various reports from several United Nations (UN) bodies concerning the grave crisis faced by the country. It noted in particular the report on the investigation by the Office of the UN High Commissioner for Human Rights on Libya of 15 February 2016, which indicated that migrants have been arbitrarily detained or deprived of their liberty, frequently in inhumane conditions, and subjected to financial exploitation and forced labour. In this regard, the UN High Commissioner for Human Rights recommended that the Government address urgently the situation of migrants and take effective action to combat human trafficking (A/HRC/31/47, paragraphs 61 and 83(j)). The Committee also noted the UN Security Council Resolution 2240 of October 2015, which condemned all acts of migrant smuggling and human trafficking into, through and from the Libyan territory and off the coast of Libya, which undermined further the process of stabilization of Libya and endangered the lives of thousands of people (S/RES/2240 (2015)).

The Committee notes the Government's indication in its report that the legal framework that ensures the prosecution of perpetrators of trafficking in persons, includes the Penal Code and the Criminal Procedure Act. In addition, a Bill on combating trafficking in persons is being drafted. The Government also refers to the future establishment of an Anti-Trafficking Committee that will be in charge of drafting a national action plan to combat trafficking.

The Committee observes that according to the Report of the United Nations Support Mission in Libya (UNSMIL), Libya is a destination and transit country for migrants. Many suffer human rights violations and abuses in the course of their journeys. After interception by armed men believed to be from the Libyan Coast

Guard, migrants are taken to detention centres or private houses and farms where they are subjected to arbitrary detention, sexual exploitation and forced labour. They are forced to work in farms, as well as in construction and as domestic workers, road-paving workers and rubbish collectors (Detained and Dehumanised: Report on Human Rights Abuses against Migrants in Libya, 13 September 2016, UN Support Mission in Libya Office of the UN High Commissioner for Human Rights, pages 1 and 18). Moreover, the Committee notes that in its resolution 2388 of 2017, the UN Security Council expressed concern that the situation in Libya is exacerbated by the smuggling of migrants and human trafficking into, through and from the Libyan territory, which could provide support to other organized crime and terrorist networks in Libya (S/RES/2388). The Committee must express its **deep concern** at the situation of migrant workers in Libya who are subjected to forced labour practices, including trafficking in persons. **While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take the necessary measures to prevent, suppress and combat trafficking in persons. The Committee requests the Government to take the necessary measures to ensure that migrant workers who are subjected to forced labour are fully protected from abusive practices. The Committee also recalls the importance of imposing appropriate criminal penalties on perpetrators so that recourse to trafficking or forced labour does not go unpunished. In this regard, the Committee requests the Government to take the necessary measures to ensure that perpetrators are prosecuted and that sufficiently effective and dissuasive criminal penalties are imposed in practice. Lastly, the Committee hopes that the Bill on combating trafficking in persons will be adopted soon and that the Government will provide a copy, once adopted.**

The Committee invites the Government to avail itself of technical assistance from the Office in order to facilitate the implementation of the Convention.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1961)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1(a) of the Convention. Sanctions involving compulsory labour as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system. For a number of years, the Committee has been referring to various provisions of the Publications Act No. 76 of 1972, under which persons expressing certain political views or views ideologically opposed to the established political, social or economic system may be punished with penalties of imprisonment (involving, under section 24(1) of the Penal Code, an obligation to perform labour). The Committee also noted the Government's indication that the Publications Act would be amended to take into account the Committee's comments. Moreover, following the establishment of the revolutionary Transitional Council, laws that were not in conformity with the principles of freedom and democracy were suspended, including the Publications Act. The Committee noted furthermore from the Report on the Investigation by the Office of the United Nations High Commissioner for Human Rights on Libya that journalists had faced serious harassment and death threats; some had been subjected to arbitrary detention and abduction. Journalists also faced criminal prosecution for defamation and libel for writing on political matters (2016 A/HRC/31/47, paragraph 50).

The Committee notes that in its report the Government refers to certain sections of the Publications Bill, indicating that the Bill is still being studied and amended and will be transmitted to the legislative authority as soon as it is completed. The Committee draws the Government's attention to the fact that the purpose of the Convention is to ensure that no form of compulsory labour, including compulsory prison labour, is used in the circumstances specified in the Convention. However, the Committee has observed that under various provisions of the abovementioned legislation, penalties of imprisonment involving compulsory labour may be imposed and are therefore not in line with the Convention.

Moreover, the Committee observes that according to the report of the United Nations High Commissioner for Human Rights of 2018, media professionals, activists and human rights defenders had their rights to freedom of expression and association restricted and were subjected to abductions, and arbitrary detention (A/HRC/37/46, paragraph 47). The Committee is therefore bound to express its **deep concern** at the current human rights situation in the country and recalls that restrictions on fundamental

rights and liberties, including freedom of expression, may have a bearing on the application of the Convention, if such measures are enforced by sanctions involving compulsory labour. ***While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take the necessary measures to ensure that no prison sentences involving compulsory labour are imposed on persons who, without having recourse to violence, express political opinions or views opposed to the established political, social or economic system. The Committee trusts that the necessary measures will be taken to bring the Publications Act No. 76 of 1972 into conformity with the Convention, and requests the Government to provide information on the progress made in this regard.***

The Committee invites the Government to avail itself of technical assistance from the Office in order to facilitate the implementation of the Convention.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Madagascar

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2007)

Previous comment

Article 1(b) of the Convention. Imposition of forced labour as a method of mobilizing and using labour for the purposes of economic development. The Committee recalls that Ordinance No. 78-002 of 16 February 1978 setting forth the general principles of national service, is incompatible with the Convention inasmuch as, under the Ordinance, all Malagasies are bound by the duty of national service, which is defined as compulsory participation in national defence and in the economic and social development of the country. The Committee notes the Government's indication in its report that a draft text amending Ordinance No. 78-002 of 16 February 1978 is being prepared at the Ministry of National Defence. The Government also explains that the recruitment of Malagasies who have opted for national service is undertaken on the basis of requests for recruitment received by the Ministry and only interested persons who have the requisite qualities are accepted. The Committee also notes the Government's indication in its report on the application of the Forced Labour Convention, 1930 (No. 29), that participation in national service is voluntary and requires a written request from the interested person.

The Committee observes that the obligations of national service, as defined in the above-mentioned Ordinance No. 78-002, include registration, review and activity for a period of two years. The latter can be performed either in or outside the armed forces, in particular in the context of "development action military service" (SMAD). The Committee recalls that programmes involving the compulsory participation of young persons in activities for the development of their country as part of military service or replacing it are incompatible not only with *Article 1(b)* of the Convention, which prohibits the use of labour for purposes of economic development, but also with *Article 2(2)(a)* of Convention No. 29, which provides that any work or service exacted in virtue of compulsory military service laws must be of a purely military character.

In view of the Government's indication that in practice participation in national service is voluntary and that a draft text amending Ordinance No. 78-002 is being prepared, the Committee expresses the firm hope that the Government will take the necessary steps to bring the legislation concerning national service into conformity with Conventions Nos 29 and 105, either by making national service voluntary or by limiting the work done as part of national service obligations to work of a purely military nature.

Malaysia

Forced Labour Convention, 1930 (No. 29) (ratification: 1957)

Previous comment

The Committee welcomes the ratification by Malaysia of the Protocol of 2014 to the Forced Labour Convention, 1930. ***It hopes that the Government will provide detailed information on its application, in accordance with the report form adopted by the Governing Body.***

Articles 1(1), 2(1) and 25 of the Convention. 1. *Vulnerable situation of migrant workers with regard to the exaction of forced labour.* The Committee previously noted that, despite various measures taken by the Department of Labour in order to protect migrant workers, labour rights violations and abusive working conditions of migrant workers that amount to forced labour persisted in practice, including passport confiscation by employers, wage arrears, long working hours and forced contract extension. The Committee notes the adoption of the Employment (Amendment) Act 2022 (Act A1651), and more particularly:

- the amendment of section 60K, which now provides that no employer shall employ a foreign employee unless prior approval has been obtained from the Director-General of Labour. An employer who contravenes this provision commits an offence and shall be liable to a fine or to imprisonment for a term not exceeding five years. The Director-General of Labour may approve an application if the employer complies with specific conditions, including having no outstanding matter or case relating to any conviction for any offence under the Employment Act or in relation to trafficking in persons and forced labour;
- new section 60KA, which provides that the employer shall, within 30 days of the termination of service, inform the Director-General of Labour of the termination; and
- new section 90B, which provides that “any employer who threatens, deceives or forces an employee to do any activity, service or work and prevents that employee from proceeding beyond the place or area where such activity, service or work is done, commits an offence and shall, on conviction, be liable to a fine ... or to imprisonment for a term not exceeding two years or to both.”

The Committee notes with **interest** these legislative developments, as well as the adoption of the National Action Plan on Forced Labour (2021-2025) – NAPFL, elaborated with ILO technical assistance. The NAPFL identifies four strategic goals focusing on: (1) awareness-raising; (2) legal compliance and enforcement; (3) labour migration management; and (4) access to remedy, support and protection services. The Committee notes that specific actions to improve labour migration governance are provided for in the framework of the NAPFL, with a view to: (1) improving recruitment systems and practices for migrant workers; (2) strengthening capacity of law enforcement officials for migration management and prevention of forced labour; and (3) raising awareness of migrant workers regarding legal migration pathways, workplace rights and entitlements and key relevant legislation relating to forced labour and trafficking in persons, in their own languages.

The Committee notes the Government's indication, in its report, that on 1 January 2022, the moratorium on the recruitment of foreign workers that had been imposed since March 2021 as a result of the COVID-19 pandemic, was lifted. However, the resumption of the application and admission of foreign workers into Malaysia for employers only started on 15 February 2022. The Government adds that recruitment and employment of foreign workers remains through the Memorandum of Understanding (MOU) framework on a government to government (G to G) basis. Currently, Malaysia has cooperation with ten source countries and MOUs were signed with Bangladesh, Indonesia and Vietnam. New MOUs are being negotiated with Cambodia, India, Sri Lanka, Nepal and Thailand. The Government further indicates that, in 2021 and 2022, training activities were implemented, with the

assistance of the ILO, in order to strengthen the capacities of labour inspectors in forced labour and a reporting and referral step-by-step Guide on forced labour and human trafficking was published. Furthermore, in May 2021, the Working for Workers application was launched with a view to enable workers to lodge online complaints. In this regard, the Committee notes that, as of June 2022, the Ministry of Human Resources received 17,091 complaints on various labour issues.

The Committee notes that, as highlighted in the framework of the Decent Work Country Programme for 2019–2025, migrant workers remain vulnerable to forced labour practices and are primarily employed in low-skilled and labour-intensive jobs in sectors such as construction, domestic work, agriculture and manufacturing. Furthermore, public attitudes towards migrant workers remain negative and are expressed through discriminatory actions, such as limiting or denying entry; exclusion from access to services; public support for laws that enshrine social exclusion of migrant workers; and denying equal wages on par with nationals (ILO and UN Women, Research brief, Public attitudes towards migrant workers in Malaysia, December 2020). More particularly, levels of exploitation and abuse are disproportionately high in both the plantation and domestic work sectors, largely due to the physical isolation of the workplaces, restrictions on movement, and inadequate mechanisms established to ensure accountability of employers (Enhancing standard employment contracts for migrant workers in the plantation and domestic work sectors in Malaysia, ILO, 2020). The Committee notes that, in his 2020 report, the United Nations Special Rapporteur on extreme poverty and human rights indicated that estimates of the number of migrant workers in Malaysia generally range between 3 and 6 million, inclusive of both documented and undocumented workers. Migrant workers are reportedly subjected to passport confiscation, low wages in violation of minimum wage laws, punishment by fines, high recruitment fees, debts to recruitment agencies and employers, and salary deductions. Reports documenting abuses against migrant workers are consistent and numerous. Labour protections appear widely unenforced and the situation seems not to have improved in recent years (A/HRC/44/40/Add.1, 6 April 2020, paragraphs 58–60).

While welcoming the measures taken by the Government, the Committee notes with **concern** the continued abusive working conditions of migrant workers that amount to forced labour, such as passport confiscation, high recruitment fees, non-payment of wages, deprivation of liberty, and physical and sexual abuse. Furthermore, it observes in this regard that the Government has not provided information on the number of prosecutions and convictions concerning cases of exploitative employment conditions of migrant workers. ***The Committee therefore urges the Government to continue to strengthen its efforts to ensure that migrant workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour. It requests the Government to provide information on the implementation of the National Action Plan on Forced Labour (2021–25), and in particular on measures taken to:***

- (i) raise awareness of migrant workers regarding legal migration pathways and labour rights, as well as public awareness of the situation of migrant workers in order to address negative public attitudes towards them;***
- (ii) strengthen the capacity of labour inspectors in order to ensure the effective implementation of section 60K of the Employment Act, and enable them to detect and identify cases of forced labour and collect evidence;***
- (iii) strengthen the capacity of law enforcement bodies and the cooperation among them, indicating the number of cases of forced labour of migrant workers identified and investigated, prosecutions initiated and convictions handed down;***
- (iv) improve labour migration management, providing information on bilateral agreements with countries of origin and on any measure taken to strengthen international cooperation in that regard; and***

- (v) ***ensure that appropriate protection and assistance is provided to migrant workers victims of forced labour practices, indicating the number of victims who have been identified and who have received assistance.***

2. *Trafficking in persons.* The Committee previously noted the measures taken to strengthen the legislative and institutional framework to combat trafficking in persons, and requested the Government to pursue its efforts in this regard. The Committee welcomes the adoption of:

- (i) the Anti-Trafficking in Persons and Anti-Smuggling of Migrants (Amendment) Act 2022 (Act A1644) which: (i) expanded the definition of trafficking in persons; (ii) removed “coercion” as the only critical element in determining cases of trafficking in persons; and (iii) increased penalties for some offences including when public officials are found guilty of complicity with the perpetrators; and
- (ii) the third National Action Plan to Combat Trafficking in Persons (2021–25) which comprises four pillars: prevention, prosecution and enforcement, protection, and partnership.

The Committee notes the Government’s indication that several training activities were carried out for law enforcement officers, public prosecutors and protection officers in order to strengthen their capacity regarding the investigation and prosecution of cases of trafficking in persons and to provide protection and assistance to victims. The Government adds that specialized units on trafficking in persons were established under the Royal Malaysian Police and Immigration Department. The Committee notes that Standard Operating Procedures for enforcement agencies and National Guidelines on Human Trafficking Indicators (NGHTI) were launched by the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (MAPO) in 2020 and 2021. The NGHTI document serves as a standard guide, particularly for enforcement officers, in the process of identifying trafficking victims. The Government adds that in November 2021 the Ministry of Women, Family and Community Development also launched a training manual on trafficking in persons based on a victim-centred and trauma-informed approach in order to better assist victims of trafficking in persons.

According to the information provided by the Government, in 2021, 43 victims of trafficking in persons were repatriated and 47 were granted permission to move freely and work. In 2021, 11 cases of trafficking in persons were under investigation (compared to 32 cases in 2020), while no case was under prosecution (compared to 7 in 2020). The Committee notes the important decline in the number of investigations and prosecutions for cases of trafficking, and notes that the Government has not provided information on the number of persons convicted for trafficking in persons. ***In light of the above, the Committee strongly encourages the Government to take the necessary steps for the effective implementation of the four pillars of the National Action Plan to Combat Trafficking in Persons (2021–25) and to provide information on the specific measures taken in this regard, as well as on the assessment of the results achieved and the difficulties encountered. It further requests the Government to continue to provide information on the application of the Anti-Trafficking in Persons Act in practice, as well as the number of victims of trafficking who have been identified and who have benefited from adequate protection. Recalling that Article 25 of the Convention provides that the imposition of forced labour shall be punishable by penalties that are really adequate and strictly enforced, the Committee requests the Government to provide specific information on the investigations carried out and prosecutions initiated, as well as on the number of persons convicted under the Anti-Trafficking in Persons Act and the penalties imposed.***

The Committee is raising other matters in a request addressed directly to the Government.

Mali

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

Protocol of 2014 to the Forced Labour Convention, 1930 (ratification: 2016)

Previous comment

Articles 1(1) and 2(1) of the Convention, and Articles 1(2), 2 and 3 of the Protocol. Hereditary servitude. Systematic and coordinated action and protection of victims. The Committee previously noted with concern the persistence of slavery-like practices and requested the Government to take the necessary measures to assess the extent of the phenomenon of slavery and to adopt systematic and coordinated action to bring it to an end.

The Government indicates in its report that a study on hereditary servitude in the Kayes region and a national strategy to combat hereditary servitude were validated in July 2021 by the National Human Rights Commission (CNDH). The Committee notes that, according to the study, the causes of the persistence of hereditary servitude are of an economic nature ("slave masters" have large areas of land and slaves are the workforce to work on the land), but are also due to persistent traditional and religious beliefs (local customs, which provide the basis for a form of social domination, facilitate the practice of slavery) and the ignorance of populations (which are rural and mostly illiterate in the areas where slavery persists). The study emphasizes that slaves work for their masters in order to benefit from working the land. The slave either works exclusively for the master, who benefits from the whole harvest, or works both for the master and for him or herself. In the latter case, there are slaves who have access to lands on a precarious basis in return for accepting their conditions and servile status. They are required to work the land for their masters before tending their own fields.

The Committee also notes that, in its 2020 annual report, the CNDH emphasizes that the phenomenon of hereditary servitude in the Kayes region is demonstrating worrying trends, particularly as a result of its increasingly violent forms, which have resulted in the loss of human life, the abuse of physical and moral integrity, the right to property and internally displaced persons (page 5). The year 2020 was a highpoint in the expression of horror at the practice of slavery. Harmful discriminatory practices in respect of "descendants of slaves" are undeniable and recurrent. They mainly take the form of ill-treatment, aggression, the seizure of property and even total banishment from society. The CNDH emphasizes that these forms of violence are often a result of the refusal by "descendants of slaves" to accept their lower social status. Moreover, anyone who denounces this form of discrimination is systematically subjected to reprisals, often encouraged and carried out by the traditional chiefs of the various areas (pages 34 and 35).

The Committee notes that United Nations human rights experts reported, in a press release dated 29 October 2021, a series of barbarous attacks in 2021 against hundreds of persons born into slavery. The experts refer to eight attacks between January and September in the Kayes region, during which one person was killed, at least 77 were injured and over 3,000 people considered to be "slaves" were displaced.

The Committee expresses **deep concern** at this information, which bears witness to the persistence of the system of hereditary servitude in the country under which people are victims of forced labour, multiple forms of discrimination and violence when they attempt to assert their rights. The Committee recalls, as confirmed by the CNDH study, that the causes of the persistence of such practices are complex and multidimensional and that systematic and coordinated action is required to combat the phenomenon involving all sectors of society (economic, social, religious and so forth). It also notes that Mali is benefiting from ILO technical assistance through the project to combat slavery and discrimination based on slavery in Mali (2019–23). The project aims to improve stakeholders' knowledge and raise their awareness of slavery and slavery-based discrimination, strengthen victims' access to

economic independence and legal assistance services, and reinforce the legislative framework and its enforcement.

The Committee urges the Government to renew its efforts to bring an end to the practice of hereditary servitude and trusts that it will take the necessary measures as soon as possible to:

- (i) implement the national strategy to combat slavery, with a view to ensuring systematic and coordinated action by the competent authorities and other actors involved;***
- (ii) designate the authority competent for the implementation of the strategy and provide it with the necessary resources for the discharge of its functions;***
- (iii) raise awareness, educate and inform the whole population of the real situation and the gravity of slavery-like practices, including the traditional and religious authorities in regions where slavery persists; and***
- (iv) identify, free and assist victims and ensure that they benefit from protection that is adapted to their situation to enable them to assert their rights, obtain compensation and recover psychologically, economically and socially.***

Article 25 of the Convention and Article 1(3) of the Protocol. Imposition of penalties. The Committee previously requested the Government to take the necessary measures to ensure that prosecutions are undertaken in cases of slavery, and to reinforce the capacities of actors in the criminal justice system. The Government indicates that a preliminary draft of an amendment to the Criminal Code was validated on 20 August 2022 which seeks to include a specific offence of slavery in all its forms, including hereditary servitude, and establish specific penalties for this crime. The Government adds that once the amended Criminal Code has been adopted, particular emphasis will be placed on slavery and its various forms through an awareness-raising and training campaign for actors in the criminal justice system. The Government specifies that a 2019 circular of the Minister of Justice and Human Rights calls on magistrates to punish all offences related to the phenomenon of hereditary servitude.

The Committee notes the Government's indication that, in the context of the project to combat slavery and slavery-based discrimination in Mali, the Government, with ILO support, has been able to train 20 labour inspectors and controllers on the laws and policies to combat slavery, and on the identification and denunciation of cases of slavery and forced labour within the context of inspections undertaken in rural areas and the informal economy.

The Committee also notes, according to the information contained in the quarterly note of 30 May 2022 of the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) on trends of violations and abuses of human rights in Mali, that some progress has been made in combating impunity, including remand warrants being issued for at least 30 persons in the context of investigations of acts of violence against persons considered to be "slaves". Moreover, the Minister of Justice and Human Rights has instructed the Prosecutor General of the Appeal Court of Kayes to organize a special session of the Assizes in 2022, focusing specifically on the judgement of cases relating to hereditary servitude practices (paragraph 52).

The Committee expresses the firm hope that the draft amendment to the Criminal Code will be adopted without delay, that it will contain provisions defining the constituent elements, incriminating and punishing hereditary servitude and all related offences, and that it will be broadly disseminated to the competent authorities and all groups of the population. The Committee also urges the Government to continue its efforts to reinforce awareness-raising activities and build the capacities of law enforcement institutions (the labour inspection services, the forces of order, the investigation and judicial authorities) in order to ensure that cases of slavery are identified, evidence gathered and prosecutions launched so that those responsible for such practices are punished. The Committee requests the Government to provide information on the number of cases of slavery that have been identified, the number of prosecutions initiated and the number and nature of the penalties imposed.

The Committee hopes that the Government will continue to avail itself of ILO technical assistance with a view to achieving notable progress in the fight against slavery in the near future.

The Committee is raising other matters in a request addressed directly to the Government.

Mauritania

Forced Labour Convention, 1930 (No. 29) (ratification: 1961)

Protocol of 2014 to the Forced Labour Convention, 1930 (ratification: 2016)

Previous comment

The Committee once again notes that the Government has not provided the first report on the application of the Protocol of 2014 to the Forced Labour Convention, 1930, ratified in 2016. ***The Committee urges the Government to provide detailed information on its application in accordance with the report form adopted by the Governing Body.***

Articles 1(1), 2(1) and 25 of the Convention. Slavery and the vestiges of slavery. The Committee previously asked the Government to continue its action against slavery, a practice which persists in Mauritania despite the actions taken by the Government in the context of the road map for the eradication of contemporary forms of slavery adopted in 2014. The Committee emphasized that, in the face of such a complex and controversial phenomenon, it was essential to reinforce the multisectoral approach and ensure coordinated action, particularly through the adoption of an action plan against forced labour and slavery containing the four components set out below.

(a) Effective application of the 2015 Act criminalizing slavery and punishing slavery-like practices. The Committee previously noted the measures aimed at reinforcing the competencies, capacities and knowledge of law enforcement officers and judicial officials involved in combating slavery so as to ensure the effective application of the 2015 Act. While welcoming the fact that an increasing number of cases of slavery had been brought before the three special criminal courts, the Committee noted that obstacles remained in referring cases to these courts, that information on the cases examined was still imprecise, and that only a few cases seemed to have resulted in the imposition of really effective penalties.

The Committee notes the Government's indication in its report that measures have continued to be taken to ensure the effective application of the Act. The Government refers in particular to: (i) continuing the mobile units (caravans) providing awareness-raising and training for the administrative, judicial and security authorities on the 2015 Act and the organization of workshops for evaluation and judicial exchanges concerning the Act; (ii) the adoption of new circulars by the Public Prosecutor's Office containing instructions and guidance for the systematic engagement of investigations and prosecutions concerning credible allegations of slavery or trafficking in persons; (iii) the establishment of a watchdog unit responsible for monitoring the transparency, efficacy and rapidity of the judicial processing of cases referred to the courts, composed of representatives of the central administration of the Ministry of Justice and the Public Prosecutor's Office in conjunction with the Supreme Court; and (iv) the setting up of offices responsible for providing legal assistance to all *wilaya* courts and the inclusion of financing for this sphere in the state budget for the 2022 financial year. The Government also reiterates that the special courts have delivered various case law judgments which are testimony to abundant coverage of all possible judicial scenarios (convictions, acquittals, inadmissible cases, prejudicial issues regarding lack of competence, statutes of limitations). With regard to statistics, the Government indicates that seven complaints are under investigation, 11 are under prosecution, seven cases are before the special courts, 11 are before the *wilaya* courts, and 16 are before the appeal courts.

The Committee notes that the National Human Rights Committee (CNDH), in its annual report for 2020–21, issues a series of recommendations to the Government regarding the reinforcement of action against slavery. The CNDH calls on the Government to take all possible steps to ensure that justice takes its normal course without obstacles in order to impose criminal penalties on the perpetrators of the crime of slavery on the basis of the 2015 Act. It recommends the acceleration of judicial proceedings for the 22 cases of slavery pending before the courts monitored by the CNDH and *SOS Esclave* (SOS slavery) which have been dragging on for years without any justification.

The Committee notes all the above information, particularly that concerning the awareness-raising activities carried out with regard to the 2015 Act and public access to the justice system. It observes that a large number of cases are being examined by the Public Prosecutor's Office and the courts but that the Government has not provided specific information on the cases which have resulted in convictions and the imposition of criminal penalties for the perpetrators, or on the complaints lodged or the cases in which the victims have received support from the competent authorities. It also observes that the *wilaya* courts still seem to have certain slavery cases before them which have not been referred to the specialized courts by the Public Prosecutor's Office. The Committee recalls that, under *Article 25* of the Convention, States have the obligation to ensure that the penalties imposed by law for the exaction of forced labour are really adequate and strictly enforced. ***In this context, the Committee welcomes the setting up of the unit tasked with monitoring the transparency, efficacy and rapidity of the judicial processing of slavery cases brought before the courts, and hopes that this unit will be allocated the necessary resources to ensure the prompt and thorough handling of slavery cases at all their stages (investigation, prosecution and judgment). The Committee requests the Government to continue taking measures to ensure awareness-raising, training and specialization for all players in the criminal justice system. The Committee once again requests the Government to take the necessary measures, firstly, to evaluate the operation of the three specialized criminal courts and the manner in which slavery cases are referred to it, and, secondly, to build the capacities of the police and the Public Prosecutor's Office regarding the identification of situations of slavery, gathering of evidence and examination of the facts. The Committee also requests the Government to provide information on the number of cases of slavery reported to the authorities, the number of cases that have led to judicial action, the number of convictions handed down, the nature of the penalties imposed, the number of cases settled outside the judicial system, and the number of victims of slavery who have been compensated for the injury suffered, in accordance with section 25 of the 2015 Act.***

(b) *Systematic and coordinated action.* The Committee notes that the Government does not provide any information on the progress made regarding an action plan against forced labour which it had reported to the ILO mission to Mauritania in 2018. The same applies to the collection of qualitative data on the issue of slavery in the country. In this regard, the Committee recalls that the fight against slavery requires the engagement of everyone in the context of coordinated action at the highest level, as had been the case with the inter-ministerial committee responsible for the implementation of the road map under the direct supervision of the Prime Minister. ***The Committee therefore once again requests the Government to ensure that action against slavery forms part of systematic and coordinated action involving all stakeholders, including workers' and employers' organizations, in order to tackle the underlying causes of slavery and to respond to its many different aspects. The Committee also requests the Government to indicate the measures taken to have reliable qualitative and quantitative data on slavery and its various manifestations.***

(c) *Protection and reintegration of victims.* The Committee once again observes that the Government does not provide information on specific assistance given to victims of slavery despite the fact that a number of cases are under investigation or before the courts. It notes that, among the general measures to reduce poverty and ensure social integration, the Government refers to the programmes devised by the General Delegation for National Solidarity and Combating Exclusion (TAAZOUR), including the Cheyla programme on access to education, health, water and energy; the Albarka

programme on income-generating activities for poor and vulnerable population groups; the measures taken to facilitate the acquisition of civil status for persons without it, with the issuing of 191,684 civil status rulings to issue certificates of births registered between 2020 and 2022. The Committee notes the Government's indication that the recently established national authority for combating trafficking in persons and migrant smuggling will ensure, in conjunction with the services and structures concerned, the provision of the necessary social assistance for victims of trafficking, including slavery and slavery-like practices.

The Committee duly notes the general measures to combat poverty and to ensure social integration taken by the Government and encourages it to continue these actions by targeting the regions where cases of slavery have been recorded. It also requests the Government to provide information on the measures taken to facilitate access to property (real estate), an issue identified by the CNDH in its report as giving rise to numerous legal disputes concerning the descendants of former slaves, particularly the Ghidimaka.

The Committee also recalls that the victims of slavery must receive specific support geared to their situation, enabling them to assert their rights and rebuild their lives psychologically, economically and socially, and to enjoy protection against any form of reprisals or marginalization. The Committee notes with **regret** that the Government has not provided any information in this regard. ***The Committee urges the Government to provide information on the measures taken to ensure effective support for the victims of slavery once their situation has been reported to the authorities or civil society associations, especially in order to facilitate their access to complaint procedures, to ensure immediate and medium-term protection for their rehabilitation, and to ensure compensation for them. The Committee once again requests the Government to indicate the number of cases in which the competent authorities have supported victims at the stage of investigation and judicial proceedings, indicating the nature of such assistance.***

(d) *Awareness-raising.* The Committee previously requested the Government to continue undertaking awareness-raising activities on the issue of slavery throughout the country and to involve all stakeholders, including the local authorities, so that the firm position of the State on the issue of action to combat slavery, its vestiges and discrimination is communicated and understood at all levels. The Committee notes the Government's reference to the commemoration of the national day against slavery and slavery-like practices and to the mobile awareness-raising units.

The Committee also notes that the United Nations Special Rapporteur on contemporary forms of slavery, including its causes and consequences, at the end of his mission in May 2022, recognized the significant measures taken by the Government to combat slavery, while cautioning that much remained to be done. He emphasized that descent-based and contemporary forms of slavery continue to exist in Mauritania, within all the country's major ethnic groups, despite this practice being denied by certain parties. He stated that social transformation and a change in mindset is needed in order to fully recognize and address slavery instead of denying its existence (press release of 13 May 2022).

The Committee requests the Government to continue taking measures and strengthen its action to raise the awareness of all the competent authorities and society as a whole and to mobilize them on combating slavery, its vestiges and the discrimination suffered by slaves and their descendants. In view of this situation, the Committee hopes that the Government will collaborate with the traditional authorities, civil society and the social partners and that it will continue to avail itself of support from the ILO technical cooperation project assisting the implementation of Act No. 2015-31 criminalizing slavery and punishing slavery-like practices.

The Committee is raising other matters in a request addressed directly to the Government.

Mongolia

Forced Labour Convention, 1930 (No. 29) (ratification: 2005)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1(1), 2(1) and 25 of the Convention. 1. Trafficking in persons. The Committee previously noted the establishment of the National Sub-Council on Combating Trafficking in persons to regulate the activities on combating and preventing trafficking and provide professional guidance, following the adoption of the Law on Combating Human Trafficking (2012). It noted that a National Programme on Combating Human Trafficking had been drafted to provide a plan of action in implementing anti-trafficking activities. It also noted that the Parliament passed the Law on Witness and Victim Protection in 2013, providing for protection measures for victims of trafficking. The Committee encouraged the Government to pursue its efforts to prevent, suppress and combat trafficking in persons and to provide protection and assistance, including legal assistance, to victims of trafficking.

The Government indicates in its report that the updated National Programme on Combating Human Trafficking was adopted by resolution No. 148 of 24 May 2017. This programme aims, inter alia, at: (i) organizing work to prevent and combat trafficking in persons through the study of the root causes and the conditions of this phenomena; (ii) taking and implementing measures for the protection of victims, including medical and psychological assistance; and (iii) expanding cooperation with other Governments, international organizations and non-state organizations. The Government further states that the Minister of Justice and Home Affairs and the Chairman of the Coordinating Council for the Prevention of Crimes of Human Trafficking have approved in 2018 the Implementation Schedule for the National Programme on combating Human Trafficking. In this framework, the Ministry of Justice and Home Affairs and other organizations have implemented in 2018 a joint plan and set up training courses on the provision of assistance to victims of human rights and the identification of the victims for staff of the Ministry of External Relations, the Border Protection Agency, the Office for Foreign Nationals and the border Offices in Dornogov' Province. The Government also indicates that resolution No. A/173 regulates the composition and functions of the Sub-Council on Combating Trafficking in persons.

The Committee notes that the Criminal Code of 2015, which entered into force in July 2017, provides for a sentence of imprisonment of two to eight years for trafficking in persons for the purposes of labour and sexual exploitation, and of five to 12 years for cross-border trafficking. It also notes that, according to the 17th Status Report on human rights and freedoms issued in 2018 by the National Human Rights Commission of Mongolia, the National Programme on Combating Human Trafficking is a four year programme (2017–21), section 5.2 of which provides for comprehensive legal, psychological, medical and rehabilitative services for victims of trafficking and the establishment of shelters. This Report also indicates that in November 2017, ten criminal cases of trafficking in persons were registered at the national level, according to information received from the Ministry of Justice and Home Affairs. A common database was created in 2016 to improve inter-sectorial coordination among the Government and non-governmental organizations in combating trafficking in persons and in registering victims and suspects. The Committee also notes that a two-year project "Improving victim-centred investigation and prosecution monitoring on human trafficking in Mongolia", aimed at developing training manuals and at training law enforcement officials, prosecutors, judges and officers of the Immigration Department, is being implemented by the Ministry of Justice and Home Affairs and the Asia Foundation. The Committee further notes that, in its concluding observations of August 2017, the Human Rights Committee expressed concern at the lack of identification of victims and reports of arrest and detention of victims for acts committed as a direct result of being trafficked (CCPR/C/MNG/CO/6, paragraph 27). It also notes that, according to the European Commission's document of January 2018 on the assessment of Mongolia covering the period 2016–17, there are only two trafficking-specific shelters in the country (page 10). **The Committee requests the Government to provide information on the impact of the measures taken by the Government, particularly the National Programme on Combating Human Trafficking and its Implementation Schedule, in preventing trafficking in persons and in identifying and assisting victims of trafficking in persons. It also requests the Government to take the necessary measures to ensure that victims of trafficking are treated as victims rather than offenders and have access to protection and assistance, and to provide information in this respect. Lastly,**

the Committee requests the Government to provide information on the application in practice of the provisions criminalizing trafficking in persons.

2. *Vulnerable situation of migrant workers with regard to the exaction of forced labour.* The Committee notes that according to the ILO's Mongolia Policy Brief on Forced Labour of June 2016, reports indicated that tens of thousands of Chinese construction and mining workers entered Mongolia with tourist visas through a Chinese labour agency and were sold to Mongolian employers, their passports being confiscated upon arrival. In addition, according to this Policy Brief and the concluding observations of the Human Rights Committee of August 2017 (CCPR/C/MNG/CO/6, paragraph 29), migrants from the Democratic People's Republic of Korea (DPRK) worked in Mongolia, in conditions tantamount to forced labour, and were prohibited from leaving work with their wages paid directly to a North Korean Government agency. The Committee recalls the importance of taking effective measures to ensure that the system of the employment of migrant workers does not place the workers concerned in a situation of increased vulnerability, particularly when they are subjected to abusive employer practices such as retention of passports, deprivation of liberty, non-payment of wages, and physical abuse, as such practice might cause their employment to be transformed into situations that could amount to forced labour. ***The Committee requests the Government to take the necessary measures to ensure that migrant workers are fully protected from abusive practices and conditions amounting to the exaction of forced labour and to provide information on the measures taken in this regard. It requests the Government to supply information on the number of identified victims of forced labour among migrant workers, and on the number of investigations, prosecutions and sanctions imposed on the perpetrators.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Mozambique

Forced Labour Convention, 1930 (No. 29) (ratification: 2003)

Protocol of 2014 to the Forced Labour Convention, 1930 (ratification: 2018)

Previous comment

The Committee welcomes the ratification by Mozambique of the Protocol of 2014 to the Forced Labour Convention, 1930. Noting that the first report of the Government has not been received, the Committee hopes that the Government will provide detailed information on the application of the Protocol, in accordance with the [report form](#) adopted by the Governing Body.

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. The Committee previously requested the Government to strengthen its efforts to combat trafficking and to implement a coordinated strategy in this regard, including through the adoption of a national action plan and the implementing regulations of Act No. 6/2008 of 9 July establishing the legal framework applicable for preventing and combating trafficking in persons. The Committee notes the Government's indication, in its report, that several awareness-raising activities were undertaken, including 1,299 presentations which were attended by 76,197 individuals throughout the country, and 55 radio and TV broadcasts, in 2022. The Government adds that the National Criminal Investigation Service (SERNIC) also carried out preventive actions through its National Reference Group (GRN) for Trafficking in Persons, Illegal Immigration and Child Protection, including in collaboration with the International Organisation for Migration (IOM). Furthermore, several training activities were carried out in order to strengthen the capacities of front-line officials, including from the Government, border control police and customs and migration services, with a view to ensuring better identification, referral and assistance for victims of trafficking in persons.

In this regard, the Committee notes that, in its 2021 annual report to the Assembly of the Republic, the Prosecutor-General highlights the specific difficulties faced in detecting cases of trafficking in

persons and identifying victims, as well as the need for concerted and increased efforts to prevent and combat trafficking in persons. The Prosecutor-General of the Republic indicates that only two cases of trafficking were investigated in 2020. The Committee further notes that in, July 2022, two Mozambican citizens were convicted by a South African Court for trafficking in persons for purposes of labour involving 39 persons from Mozambique. In this regard, the Committee notes that, according to data from the IOM and UNDOC Regional Office for Southern Africa, Mozambique remains a country of origin, transit and destination for trafficking in persons, with most victims being trafficked into forced labour, particularly in the agricultural and mining sectors, especially in South Africa. It further notes that, in the context of the deteriorating security situation in the Cabo Delgado region in the north of the country that has so far generated over 800,000 Internally Displaced Persons (IDPs), specific concerns were expressed regarding the increasing vulnerability to trafficking of persons escaping the conflict (IOM, Displacement Tracking Matrix, June 2022).

While taking due note of the activities undertaken in order to raise public awareness and strengthen the capacity of public officials to identify cases of trafficking in persons, the Committee notes with **concern** the low number of cases of trafficking investigated and prosecuted; the absence of progress in the adoption of an action plan and implementing regulations of Act No. 6/2008; and the lack of information from the Government on cases identified, and protection and assistance provided to victims. **The Committee urges the Government to step up its efforts in order to prevent and combat trafficking in persons and take the necessary measures to adopt the national plan to prevent and combat trafficking in persons and implementing regulations of Act No. 6/2008. It further requests the Government to provide information on the concrete and coordinated measures implemented with a view to: (i) preventing trafficking in persons and raising public awareness of the issue, in particular in the Cabo Delgado region; (ii) reinforcing the capacities and training of the authorities responsible for the detection and prosecution of cases of trafficking; and (iii) ensuring the effective protection and reintegration of victims. The Committee requests the Government to provide information on the number of cases of trafficking in persons identified, and the investigations and judicial proceedings initiated, convictions handed down and specific penalties imposed on perpetrators under Act No. 6/2008.**

The Committee is raising other matters in a request addressed directly to the Government.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1977)

Previous comment

Article 1(a) and (b) of the Convention. Compulsory labour for persons identified as “unproductive” or “anti-social”. For many years, the Committee has been drawing the Government’s attention to the need to amend the Ministerial Directive of 15 June 1985 on the evacuation of towns, under which persons identified as “unproductive” or “anti-social” may be arrested and sent to re-education centres or assigned to productive sectors. The Committee notes that the Government reiterates in its report that re-education centres no longer exist and persons are no longer identified as “unproductive” or “anti-social”. The Government adds that the 1985 Directive has become obsolete and implicitly abrogated as a result of the revision of the Penal Code adopted in December 2019, which provides that any legislation contrary to the Penal Code is abrogated. While taking due note of this information the Committee notes with **regret** that the Government did not seize this new opportunity of the revision of the Penal Code to formally repeal this Directive. **The Committee urges the Government to take the necessary measures to formally repeal the Ministerial Directive of 15 June 1985 on the evacuation of towns so as to bring the legislation into conformity with the Convention and with the practice indicated, thereby ensuring legal certainty.**

Article 1(b) and (c). Imposition of sentences of imprisonment involving an obligation to work for the purposes of economic development and as a means of labour discipline. For many years, the Committee has been emphasizing the need to amend or repeal certain provisions of Act No. 5/82 of 9 June 1982 concerning the defence of the economy, amended by Act No. 9/87, which provide for the punishment of types of conduct which, directly or indirectly, jeopardize economic development, prevent the implementation of the national plan and are detrimental to the material or spiritual well-being of the population. Sections 10, 12, 13 and 14 of the Act prescribe prison sentences, which may involve compulsory labour, for repeated cases of failure to fulfil the economic obligations set forth in instructions, directives, procedures and so forth, governing the preparation or implementation of the national State plan. Section 7 of the Act penalizes unintentional conduct (such as negligence, the lack of a sense of responsibility and so forth) resulting in the infringement of managerial or disciplinary standards.

The Committee notes the Government's indication that an analysis of Act No. 5/82 (as amended by Act No. 9/87) was carried out, as a result of which it appeared that the approach adopted by Act No. 5/82 is no longer applicable in the current economic context, and the subjects covered by such legislation have been incorporated in the Penal Code and other laws regulating economic activity. The Government adds that the adoption of more recent regulations led to the automatic abrogation of the provisions of Act No. 5/82. ***The Committee regrets that the Government did not take the opportunity of the adoption of the new Penal Code and other laws regulating economic activity to ensure that the national legislative framework complies with the Convention and to guarantee legal certainty. It trusts that the Government will not fail to take the necessary measures to formally repeal the provisions of Act No. 5/82 concerning the defence of the economy, as amended by Act No. 9/87, which although not applied in practice are contrary to the Convention.***

Article 1(d). Penalties imposed for participation in strikes. The Committee notes that, under section 268(3) of the Labour Act (Act No. 23/2007), striking workers who are in violation of the provisions of section 202(1) and section 209(1) (obligation to ensure a minimum service) face disciplinary penalties and may incur criminal liability, in accordance with the general legislation. The Committee notes the Government's general indication that the new Penal Code provides for the penalties applicable as a result of a violation of section 268(3) of the Labour Act. The Committee however observes that no provision in the Penal Code explicitly refers to the penalties that may be faced by striking workers in cases where their criminal liability is incurred. It recalls, in this regard that, in accordance with *Article 1(d)* of the Convention, persons who participate peacefully in a strike cannot be liable to penal sanctions involving compulsory labour. ***Referring also to its 2021 [observation on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 \(No. 87\)](#), the Committee requests the Government to ensure that no sanctions involving compulsory labour can be imposed on workers who participate peacefully in a strike and to provide information on any revision of section 268(3) of the Labour Act aiming at suppressing the reference to criminal liability. In the meantime, the Committee requests the Government to indicate the nature of the penalties that may be imposed on striking workers when their criminal liability is incurred pursuant to the provisions of section 268(3) of the Labour Act, specifying the provisions of the Penal Code applicable in such case.***

The Committee is raising other matters in a request addressed directly to the Government.

Nepal

Forced Labour Convention, 1930 (No. 29) (ratification: 2002)

[Previous comment](#)

Articles 1(1), 2(1) and 25. 1. Trafficking in persons. The Committee previously noted the measures taken to strengthen the legal and institutional framework to prevent and combat trafficking in persons,

and urged the Government to strengthen its efforts in this regard and to ensure the effective implementation of the Human Trafficking and Transportation (Control) Act of 2007 in practice. The Committee notes the Government's information that it is enforcing the Human Trafficking and Transportation (Control) Act of 2007 through institutions such as the Office of the Prime Minister and Council of Ministers, the National Planning Commission and other ministries. The Government also indicates that a coordination mechanism between the line ministries and the Office of the Attorney General has been established to ensure the effective application of the Act and "create a compelling argument" against human trafficking. Amendments to the existing laws are also being discussed, aimed at prescribing thorough investigations and prosecutions for the perpetrators of trafficking-related offences.

The Committee further notes from the Government's report of 3 November 2020 to the United Nations Human Rights Council that a separate and specialized Human Trafficking Investigation Bureau was established under the Nepal Police in 2018, as well as the National Committee for the effective implementation of the Human Trafficking and Transportation (Control) Act. The Committee also notes that a total of 285 and 338 cases of human trafficking were filed in the district courts in the fiscal years 2017/18 and 2018/19, respectively. Moreover, 678 victims of human trafficking were rescued in 2017/18 and 10,936 were rescued in 2018/19. According to the report, a fund for the rehabilitation of victims of trafficking has been established. There are 36 safe houses and rehabilitation centres in ten districts and one long-term rehabilitation centre for victims of trafficking. A total of 5,793 victims of trafficking have received various services from these centres during the last four years (A/HRC/WG.6/37/NPL/1, paragraphs 12, 33 and 34). ***The Committee requests the Government to continue its efforts to prevent and combat trafficking in persons and provide detailed information on the activities undertaken to this end, in particular by the National Committee for the effective implementation of the Human Trafficking and Transportation (Control) Act of 2007. The Committee further requests the Government to take measures to ensure adequate identification and investigation of cases of trafficking to ensure that perpetrators are prosecuted and dissuasive penalties are applied in practice. Lastly, the Committee requests the Government to continue providing appropriate protection and assistance to victims of trafficking and to provide information on the measures taken in this regard.***

2. *Vulnerable situation of migrant workers and imposition of forced labour.* The Committee previously noted the measures taken by the Government to protect migrant workers, including the introduction of a mandatory two-day pre-departure orientation course; a technical and vocational training policy for migrant workers; and a guideline for migrant domestic workers. It also noted the high prevalence of organized human smuggling and trafficking of Nepalese workers to Qatar, Saudi Arabia and the United Arab Emirates with widespread deception and fraud in the business of foreign recruitment and a high prevalence of exploitation due to a dual labour agreement system. The Committee notes that the Government reiterates that it is committed to continuing to undertake specific measures to address the difficult circumstances faced by migrant workers and to responding to cases of abuse. The Government indicates that during the COVID-19 pandemic in 2020, it rescued and repatriated a substantial number of migrant workers from several destination countries, and provided food and financial support to migrant workers who were stranded without employment in such countries.

The Committee notes from a study conducted by the *Pravasi* (Migrant) Nepali Coordination Committee (PNCC) (with financial and technical support of the ILO Country Office, Nepal) entitled *Impact of COVID-19 on Nepali Migrant Workers*, 2022, that between June and December 2020 the Government of Nepal repatriated more than 161,301 migrant workers from United Arab Emirates, Qatar, Saudi Arabia and Malaysia. This study also indicates that migrant workers have been exploited and abused both by recruiters at home and employers and authorities in destination countries, often having their rights curtailed, their welfare neglected and placing them at risk of serious physical and mental health issues and even death. The pandemic situation has exacerbated these long-standing challenges faced by migrant workers and has also created new ones. The labour permits of an estimated 1,500 workers

expired every day rendering their status in destination countries “illegal” and in many cases their passports were withheld by their employers. According to the PNCC study, migrant workers continued to (i) pay high recruitment and other migration related fees; (ii) face issues of wage-theft, exploitation, ill-treatment and abuse; (iii) face forcible expulsion from jobs without pay or benefits; and (iv) be subjected to violations of basic human rights. The Committee also notes from this study that the Government adopted the “employers pay” principle as well as the “free-visa-free-ticket” policy or the “zero cost” migration model in order to reduce the financial burden on migrant workers.

In addition, the Committee notes the Government’s indication in its Report to the United Nations Human Rights Council that it has concluded Memorandums of Understanding with a number of destination countries, including Malaysia, Japan, United Arab Emirates, Mauritius, Israel and Jordan in order to protect Nepali workers from different types of vulnerabilities. A Safe Migration Project is being conducted in 39 districts to provide information and counselling, legal aid, skill development training, psychological counselling and financial literacy to migrant workers (A/HRC/WG.6/37/NPL/1, paragraph 103). ***While noting the measures taken by the Government, the Committee requests it to step up its efforts to prevent migrant workers from being trapped in conditions of work that amount to forced labour and to provide them with protection. The Committee requests the Government to continue to provide information on the measures taken in this regard, and in particular with a view to: (i) ensuring the effective implementation of the Foreign Employment Act; (ii) providing training and information to candidates to migration on regular and safe recruitment channels, labour rights and the risks of forced labour associated with migration; (iii) ensuring that migrant workers victims of trafficking who return to Nepal receive assistance and protection for their rehabilitation, and facilitating their access to complaints mechanisms to assert their rights when they face exploitation and abusive practices; and (iv) monitoring the recruitment and placement agencies.***

3. *Forced labour in brick industries.* The Committee notes from the Report on Employment Relationship Survey in the Brick Industry in Nepal, 2020 jointly conducted by the Central Bureau of Statistics, ILO and UNICEF, that bonded and forced labour still exists in the country’s private sector, including in the brick industry. According to the survey estimates, the total work force involved in brick production, including family members, in 2020, was 186,150 persons, of which 176,373 were manual workers. Among these, 6,229 workers were found to be in forced labour and were unable to leave their jobs without negative repercussions or some risk, while some of them had fallen victims to debt bondage, and some others would lose all their wages due to them if they left the kiln.

The Committee notes that section 4 of the Labour Act of 2017 prohibits engaging anyone in forced labour, defined as any work or service performed by any worker against his/her will as a result of the threat an action with financial, physical or mental impact if he/she does not perform such work or service. Penalties for engaging any one in forced labour shall be imprisonment for two years or a fine or both, in addition to the requirement to pay remuneration, allowance and benefits, including damages (section 164). ***The Committee urges the Government to take effective measures to prevent and eliminate bonded and forced labour practices in the brick industries and to provide immediate assistance and protection to victims of bonded labour. The Committee also requests the Government to ensure that law enforcement bodies, in particular labour inspectors, carry out regular inspections to monitor the conditions of work in the brick kilns and are able to detect cases of forced labour. The Committee requests the Government to provide statistical data on the cases of bonded and forced labour detected, the prosecutions initiated and the specific penalties imposed for such violations.***

The Committee is raising other matters in a request addressed directly to the Government.

Nigeria

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

Previous comments

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. Law enforcement and penalties. In response to its previous comments on the application of effective sanctions to cases of trafficking, the Committee notes the Government's information in its report that the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) undertook several measures for the effective implementation of the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015 (Anti-Trafficking Act of 2015). These include: (i) increased efforts to investigate, prosecute and convict perpetrators of trafficking in persons and impose sufficiently stringent sentences involving imprisonment; (ii) facilitation of training for local, state and federal judges on the Anti-Trafficking Act of 2015, especially on the provision prohibiting the issuance of fines in lieu of imprisonment; (iii) proposals for a special court for trafficking in persons cases; and (iv) enactment of the Trafficking in Persons (Control of Activities of Organisations and Centres) Regulations, 2019. The Government also indicates that the Anti-Trafficking Act of 2015 is undergoing review to establish stiffer penalties for offences related to trafficking in persons.

The Committee notes that according to the data collected by the NAPTIP from 2018 to 2021, there were a total of 901 cases related to trafficking in persons for purposes of labour or sexual exploitation, and a total of 3,485 victims were rescued. It also notes the detailed information provided by the Government on the legal proceedings and convictions for trafficking-related offences under the Anti-Trafficking Act of 2015. Accordingly, from 2013 to 2021 there were 492 convictions registered. Among the 10 convictions handed down from January to March 2021, the Committee observes that in three cases offenders were sentenced to imprisonment ranging from five to seven years with an option of fines. In this regard, the Committee notes that the United Nations Special Rapporteur for trafficking in persons, especially women and children, in her end of visit statement of September 2018 stated that considering the magnitude of the phenomenon in the country, investigations and prosecutions need serious and robust improvement.

The Committee once again emphasizes the importance that appropriate criminal penalties be imposed on perpetrators and recalls that when the sanction consists only of a fine or a very short prison sentence, it does not constitute an effective sanction in light of the seriousness of the violation and the fact that the sanctions need to be dissuasive. ***The Committee therefore requests the Government to continue to take the necessary measures to ensure that all cases of trafficking are subject to thorough investigations and that sufficiently dissuasive penalties of imprisonment are imposed on persons who engage in trafficking. The Committee further requests the Government to continue providing information on the activities of the NAPTIP aimed at strengthening the capacities of law enforcement bodies in this regard. The Committee also requests the Government to provide statistical data on cases of trafficking for purposes labour or sexual exploitation, as well as information on the investigations carried out, the outcome of the legal proceedings instituted and the penalties imposed on perpetrators according to the Anti-Trafficking Act, 2015.***

2. Plan of action. The Committee notes from the Government's report that the NAPTIP approved the national action plan (NAP) on trafficking in persons (2022–26). The Committee notes that this national action plan is based on the five critical pillars of action on trafficking in persons, namely: protection and assistance; prevention; research and assessment; prosecution; and partnership and coordination. The strategic goals outlined under each pillar include: (i) to provide age, gender and diversity specific services for the protection of victims of trafficking to meet minimum human rights standards; (ii) to improve public awareness on trafficking in persons and enhance social protection for endemic communities; (iii) to develop and conduct cross-border qualitative research and data

management on human trafficking to identify trends, patterns and dimensions of human trafficking at national and international levels; (iv) to establish adequate legal frameworks and policies to address trafficking in persons; and (v) to strengthen partnership and coordination between NAPTIP and other relevant actors both at national and international levels to ensure the effective implementation of the NAP 2022–26. **The Committee welcomes this comprehensive NAP and hopes that the Government will continue to take the necessary measures to implement its various components. The Committee requests the Government to provide information on the assessment of the results achieved, the challenges faced and the measures envisaged to overcome them.**

3. *Protection and assistance for victims.* The Committee previously noted the protection and services provided to victims of trafficking including through the establishment of a Trust Fund for the benefit of victims and shelters operated by NAPTIP. It notes the Government's information that NAPTIP is currently operating 13 shelters with capacity for over 300 beds. These shelters are equipped to provide safe space and psychosocial support to victims of trafficking. The Government further indicates that a large number of victims have undergone various forms of rehabilitation, formal education programmes and vocational training (three victims of trafficking have been employed by NAPTIP and 17 have graduated from school). The Government indicates that the measures for identification of victims of trafficking are embedded in the Guidelines on the National Referral Mechanism. According to these Guidelines, several services shall be provided to protect, prevent, rehabilitate and reintegrate victims of trafficking based on their specific individual needs. **The Committee encourages the Government to continue its efforts to ensure that appropriate protection and assistance is provided to victims of trafficking for both sexual and labour exploitation. It requests the Government to continue to provide information on the measures taken in this regard, including under the National Referral Mechanism, and on the number of victims who have been identified, benefited from protection and assistance services and received compensation from the Trust Fund. In light of the fact that 35 per cent of the cases of trafficking consist of cross-border trafficking cases according to the National Action Plan, the Committee requests the Government to provide information on the measures taken to protect and reintegrate victims who return to Nigeria, as well as on the measures taken to inform Nigerian migrants of the risks of being victims of trafficking.**

The Committee is raising other matters in a request addressed directly to the Government.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1960)

Previous comment: [direct request](#)

Article 1(c) of the Convention. Punishment for breaches of labour discipline. Merchant Shipping Act. For a number of years, the Committee has been requesting the Government to amend section 196(2) of the Merchant Shipping Act of 2007, which provides for penalties of imprisonment, involving compulsory prison labour, for various breaches of labour discipline (including wilfully disobeying any lawful command (section 196(2)(b)) or continuing to wilfully disobey such commands or neglecting duties (section 196(b)(c)). The Committee notes the Government's information that the Merchant Shipping Act of 2007 and its regulations are still under review and amendments will be adopted in due course. **The Committee expresses the firm hope that the necessary measures will be taken to amend section 196(2) of the Merchant Shipping Act of 2007 so as to ensure that no penalties involving compulsory labour may be imposed for breaches of labour discipline that do not endanger the ship or the life or health of persons.**

Article 1(d). Penalties involving compulsory labour for participation in strikes. In its previous comments, the Committee noted the Government's information that section 62 of the draft Collective Labour Relations Bill prohibits the imposition of penalties of imprisonment for peaceful participation in a strike, in conformity with the Convention.

The Committee notes the Government's indication that the Collective Labour Relations Bill is still being revised. The Committee recalls in this regard that both the Trade Disputes Act, Cap. 432, of 1990 (section 17(2)(a)) and the Trade Unions Act as amended by the Trade Unions Amendment Act, 2005 (section 30) provide for the possibility of imposing penalties of imprisonment for the participation in strikes and that it has been requesting the Government to bring these provisions into conformity with Article 1(d) of the Convention for a number of years. **The Committee therefore requests the Government to take the necessary measures to ensure that the Collective Labour Relations Bill will be adopted shortly and that as part of the ongoing legislative process the above-mentioned provisions of the Trade Disputes Act and the Trade Unions Act will be amended. In the meantime, the Committee requests the Government to ensure that, in accordance with Article 1(d) of the Convention, no penalties involving compulsory labour are imposed for the peaceful participation in a strike. The Committee also refers to its [comments](#) under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).**

The Committee is raising other matters in a request addressed directly to the Government.

Rwanda

Forced Labour Convention, 1930 (No. 29) (ratification: 2001)

Previous comment: [direct request](#)

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. The Committee notes the Government's information, in its report, on the adoption of Act No. 51/2018 of 13 August 2018 relating to the prevention, suppression and punishment of trafficking in persons and exploitation of others, which repeals the provisions of the Criminal Code criminalizing trafficking in persons. The Committee welcomes the fact that, in addition to provisions criminalizing trafficking in persons and establishing stringent penalties of imprisonment (section 18), Act No. 51/2018 also includes provisions on the prevention of trafficking, and on providing protection and assistance to the victims (sections 7 to 15). It notes the Government's indication that several awareness-raising and training activities were undertaken on trafficking in persons, more particularly for law enforcement institutions regarding the identification, investigation and prosecution of cases of trafficking in persons. The Government adds that, in 2019, the Rwanda Bureau of Investigation opened 63 cases of transnational trafficking in persons (41 for forced labour and 22 for sexual exploitation). Furthermore, 64 individuals were arrested for trafficking in persons, of whom 9 were prosecuted. Two individuals were convicted and sentenced to 20 years of imprisonment and a fine.

The Committee notes that, according to the findings of research undertaken in collaboration with the Ministry of Justice and the International Organization for Migration (IOM), in 2018, Rwanda is a transit country and, to a lesser extent, a country of origin for trafficking in persons. Data from the Department of Immigration and Emigration (DGIE) show that the majority of the suspected victims of trafficking in persons identified were women (77.67 per cent) and were mainly from neighbouring countries, and that Middle East Countries and East African Countries are the most frequent destination. The Committee notes that, in the framework of the Universal Periodic Review (UPR) of the United Nations Human Rights Council, the Government indicated that the findings of this research informed the drafting of the National Action Plan on counter-human trafficking which was at the stage of adoption by the Cabinet in November 2020 (A/HRC/WG.6/37/RWA/1, 9 November 2020, paragraph 107). It further notes that, in its 2021 concluding observations, the United Nations Committee on Migrant Workers expressed concern at the limited knowledge about trafficking in persons and the challenges in evidence-gathering as one of the main causes of the low conviction rate for the crime of trafficking in persons as compared with other crimes (CMW/C/RWA/CO/2, paragraph 53). **The Committee requests the Government to pursue its efforts to combat trafficking in persons for both labour exploitation and**

sexual exploitation, including through the swift adoption of the draft National Action Plan on counter-human trafficking. The Committee requests the Government to provide information on the measures taken in this context to ensure adequate protection of victims of trafficking and strengthen the capacity of the law enforcement authorities to identify, investigate and prosecute cases of trafficking. The Committee also requests the Government to provide information on the number of cases investigated and prosecuted, the number of convictions handed down and the penalties imposed.

Article 2(2)(e). Minor communal services. For a number of years, the Committee has been drawing the Government's attention to the fact that sections 2(2), 3, 5 and 13 of Act No. 53/2007 of 17 November 2007 on community work, go well beyond the exception allowed in *Article 2(2)(e)* of the Convention for minor communal services. It noted that, pursuant to Act No. 53/2007, community work, referred to as *Umuganda*, shall aim to promote development activities in the framework of supporting the national budget and that every Rwandan from 18 to 65 years old shall have the obligation to perform community works, which shall take place on the last Saturday of every month. Persons who fail to participate without justified reasons are punishable by a fine. The Committee noted from the information provided by the Government that infrastructure construction was one of the main activities.

The Committee notes the Government's indication that *Umuganda* is the gathering of efforts of many people in order for them to carry out a general public interest activity. These community works shall be considered a civic obligation for Rwandan citizens, as provided for in *Article 2(2)(b)* of the Convention. In that regard, the Committee emphasizes that the exception of "normal civic obligations" provided for under this provision of the Convention should be understood in a very restrictive way. Three kinds of such "normal civic obligations" are specifically mentioned in the Convention as exceptions to its scope, namely: compulsory military service, work or service in cases of emergency and "minor communal services". Thus, it is not possible to consider, within the meaning of the Convention, "normal civic obligations" to be work undertaken for public purposes, such as compulsory public works of general importance or compulsory national development service, which is prohibited by the Convention (see [2012 General Survey on the fundamental Conventions](#), paragraph 277). Furthermore, the Committee recalls that "minor communal services" do not constitute forced labour only if certain criteria are met: (i) the services must be "minor", such as relating primarily to maintenance work; (ii) the services must be performed in the direct interest of the community and not relate to the execution of works intended to benefit a wider group; and (iii) the community which has to perform the services, or their "direct" representative, must be consulted in regard to the need for such services. **Noting that the large-scale participation in Umuganda is compulsory and infrastructure construction is one of the main activities, the Committee urges the Government to take the necessary measures to review the provisions of Act No. 53/2007 of 17 November 2007 to ensure compliance with the Convention, whether by ensuring that participation in community works is voluntary or by limiting their scope to the exception of "minor communal services". It requests the Government to continue to provide examples of the types of community works that can be required of the population under Act No. 53/2007.**

The Committee is raising other points in a request addressed directly to the Government.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1962)

Previous comments

Article 1(a) of the Convention. Sanctions involving compulsory labour imposed as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system. The Committee previously noted that several sections of the Penal Code (Organic Law No. 01/2012/OL of 2 May 2012) provide for sanctions of imprisonment, which involve compulsory labour, in circumstances falling within the scope of the Convention (sections 116, 136, 451, 462, 463, 468 and 469). It expressed concern regarding information on prosecution of opposition politicians,

journalists and human rights defenders as a means of discouraging them from freely expressing their opinions. The Committee requested the Government to ensure that no penal sanctions involving compulsory prison labour may be imposed on persons for peacefully expressing political views.

Concerning compulsory prison labour, the Committee notes the Government's indication, in its report, that a draft law regulating correctional services is currently under the enactment process. The draft law would repeal the obligation of prisoners to perform activities for the development of the country, themselves and the prisons, provided for under section 50(8) of Act No. 34/2010 of 12 November 2010 on the establishment, functioning and organization of the Rwanda Correctional Service, in order to avoid any abuse that may result from its application. While noting this information, the Committee observes that section 35 of Act No. 68/2018 of 30 August 2018 determining offences and penalties in general, which replaced the Penal Code, provides that the court may order that the convict serve community service as a principal penalty in lieu of imprisonment when an offence is punishable by a term of imprisonment of up to five years. The Committee observes that the legislation in force continues to provide that persons sentenced to imprisonment are under an obligation to perform activities.

Legislation related to civil liberties and political freedoms. Referring to its previous comments, the Committee notes with **interest** that, pursuant to Act No. 69/2019 of 8 November 2019 amending Act No. 68/2018, defamation against the President of the Republic and humiliation of national authorities are decriminalized. It notes, however, that, under a certain number of provisions of Act No. 68/2018, sanctions involving compulsory labour may still be imposed for acts related to civil liberties and political freedoms and through which persons can express political views or views ideologically opposed to the established political, social or economic system. The provisions in question are as follows:

- section 161 concerning public insult;
- section 164 concerning the crime of "instigating divisions";
- section 194 concerning the spread of false information or harmful propaganda with intent to cause a "hostile international opinion" against the Government;
- section 204 on causing uprising or unrest among the population; and
- section 225(1) and (2), concerning demonstration in a public place without prior authorization or illegal demonstration or public meeting (when security, public order or health is not threatened).

Legislation related to press and media freedoms. The Committee further notes that, pursuant to Act No. 02/2013 of 11 March 2013, regulating media, "the freedom of opinions and information shall not jeopardize the general public order and good morals ...". In that regard, it notes that several legislations adopted in recent years also provide for sanctions involving compulsory labour for acts through which persons express political views or views ideologically opposed to the established political, social or economic system. More particularly:

- Act No. 60/2018 of 22 August 2018 on prevention and punishment of cyber-crimes imposes up to five years' imprisonment and a fine for publishing "rumours that may incite fear, ... or that may make a person lose their credibility" (section 39); and
- Act No. 24/2016 of 18 June 2016, governing information and communication technologies, prohibits the dissemination of "grossly offensive" or "indecent" messages, as well as the use of information and communications technology to cause "annoyance, inconvenience, or needless anxiety" (section 60), and provides that any person who, knowingly or wilfully, publishes, transmits or causes to be published in electronic form, any "indecent" information commits an offence punishable in accordance with the provisions of the Penal Code (section 206).

The Committee also notes that, as recently highlighted in the framework of the Universal Periodic Review (UPR) of the United Nations (UN) Human Rights Council, several UN treaty bodies and Special Rapporteurs continued to express serious concerns at prosecutions of politicians, journalists and human rights defenders, as a means of discouraging them from freely expressing their opinions (A/HRC/WG.6/37/RWA/2, 13 November 2020, paragraph 45; letter dated 30 May 2018 from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and CAT/C/RWA/CO/2, 21 December 2017, paragraphs 52–53). In the framework of the UPR, a number of recommendations formulated by the Working Group, and supported by Rwanda, referred to the elimination from the legislation of provisions that undermine freedom of expression and the protection of journalists and members of the media and civil society against harassment and intimidation (A/HRC/47/14, 25 March 2021, paragraphs 134–136).

The Committee notes with **deep concern** this information. The Committee observes that the above-mentioned provisions of Act No. 68/2018 of 30 August 2018, Act No. 60/2018 of 22 August 2018 and Act No. 24/2016 of 18 June 2016, are worded in terms broad enough to lend themselves to their application as a means of punishment for peacefully expressing political views or views ideologically opposed to the established political, social or economic system. In so far as these provisions are enforceable with penal sanctions which involve compulsory labour, they fall within the scope of the Convention. The Committee recalls that legal guarantees of rights to freedom of thought and expression, freedom of peaceful assembly, freedom of association, as well as freedom from arbitrary arrest, constitute an important safeguard against the imposition of compulsory labour as a punishment for holding or expressing political or ideological views (2012 General Survey on the fundamental Conventions, paragraph 302). **The Committee therefore urges the Government to ensure that persons who, by means of methods that neither use violence nor incite to violence, express political views or views opposed to the established political, social or economic system do not incur penal sanctions involving an obligation to work. It expresses the firm hope that the Government will take the necessary measures to review the above-mentioned provisions of Act No. 68/2018 of 30 August 2018 determining offences and penalties in general; Act No. 60/2018 of 22 August 2018 on prevention and punishment of cybercrimes; and Act No. 24/2016 of 18 June 2016 governing information and communication technologies, for example by clearly restricting the scope of these provisions to situations connected with the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour (such as compulsory prison labour or compulsory community service). In the meantime, the Committee requests the Government to provide information on the application of these provisions in practice, including on the number of prosecutions initiated and convictions handed down, as well as information on the facts that led to them.**

Article 1(d). Sanctions for participating in strikes. The Committee notes the adoption of Act No. 66/2018 of 30 August 2018 regulating labour, which provides for a number of restrictions on the exercise of the right to strike, by considering a strike as being legal only when the arbitration committee has exceeded 15 working days without issuing its decision or the conciliation resolution on collective dispute or the court award being enforceable have not been implemented (section 105). It notes that section 118 of Act No. 66/2018 provides for sanctions of imprisonment for a term of not less than six months, involving compulsory labour, for employees who go on strike illegally. The Committee further notes the adoption of Ministerial Order No. 004/19.20 of 17 March 2020, determining essential services that should not be interrupted during strikes or lock-outs, which repealed Ministerial Order No. 4 of 13 July 2010. It observes that services related to communication, transportation or education are still considered as essential services, and that section 6 of the Ministerial Order provides that other services may be considered as essential services “for public interest”. Furthermore, employees are prohibited from exercising a strike within ten days preceding or following elections in the country (section 8). The Committee wishes to draw the Government’s attention to the fact that the right to strike may only be restricted or prohibited in essential services in the strict sense of the term (namely, in services the

interruption of which would endanger the life, personal safety or health of the whole or part of the population), in the public service only for public servants exercising authority in the name of the State, or in situations of acute national crisis (see General Survey, paragraph 314). **The Committee therefore requests the Government to take the necessary measures, both in law and in practice, to ensure that no worker who participates peacefully in a strike can be liable and sentenced to penal sanctions involving compulsory labour.**

Saint Kitts and Nevis

Forced Labour Convention, 1930 (No. 29) (ratification: 2000)

Previous comment: [direct request](#)

Article 2(2)(c) of the Convention. Work exacted as a consequence of a conviction in a court of law. For a number of years, the Committee had observed that pursuant to section 193(5) of the Prison Act (Cap 19.08), prisoners (who pursuant to section 193(1) are under the obligation to undertake useful work) may be employed for the private benefit of any person, in pursuance of special rules. Having noted that, in practice, prisoners carry out work for private entities, the Committee requested the Government to review the Prison Act to ensure that prisoners only undertake work or service for private persons or entities on a voluntary basis. The Committee notes that the Government reiterates that the recommendations of the Committee will be reviewed by the National Tripartite Committee, in consultation with the competent authority and the Ministry of National Security, to ensure that any work or service by prisoners for private persons is performed voluntarily and notes with **regret** the lack of progress made in this regard. **Therefore, the Committee urges the Government to take measures to review section 193(5) of the Prison Act (Cap 19.08) to ensure that any work or service by convicted prisoners for private persons is performed with the formal, freely given and informed consent of the prisoners concerned. It also requests the Government to ensure that, in practice, the conditions of work of the prisoners working for private entities approximate those of a free labour relationship.**

The Committee is raising other issues in a request addressed directly to the Government.

Syrian Arab Republic

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Articles 1(1), 2(1) and 25 of the Convention. Situations of forced labour arising from the armed conflict. Trafficking and sexual slavery. Following its previous comments, the Committee notes that according to the 2016 Report of the UN Special Rapporteur on the human rights of internally displaced persons on his mission to the Syrian Arab Republic to the Human Rights Council, credible information indicates that women and girls trapped in conflict areas under the control of the Islamic State in Iraq and the Levant (ISIL) face trafficking and sexual slavery. Some specific ethnic groups are particularly vulnerable, such as Yazidis and those from ethnic and religious communities targeted by the ISIL (A/HRC/32/35/Add.2, paragraph 65). The Committee also notes that, according to the 2017 Report of the UN Secretary-General on conflict-related sexual violence, thousands of Yazidi women and girls who were captured in Iraq in August 2014 and trafficked to the Syrian Arab Republic continue to be held in sexual slavery, while new reports have surfaced of additional women and children being forcibly transferred from Iraq to the Syrian Arab Republic since the start of military operations in Mosul (S/2017/249, paragraph 69).

The Committee notes the Government's indication in its report that, pursuant to the Prevention of Human Trafficking Act of 2010, a Department to Combat Trafficking in Persons was established. However, since the conflict has erupted, trafficking of persons and sexual slavery have increased because of the presence of terrorist groups in the country. The Committee must express its **deep concern** that, after almost six years of conflict, trafficking in persons and sexual slavery are practices that are still occurring on a large scale on the ground. **While acknowledging the complexity of the situation on the ground and the presence of armed groups and armed conflict in the country, the Committee once again urges the Government to take the necessary measures to put an immediate stop to these practices which constitute a serious violation of the Convention and to guarantee that the victims are fully protected from such abusive practices. The Committee recalls that it is crucial that appropriate criminal penalties are imposed on perpetrators so that recourse to trafficking or sexual slavery does not go unpunished. The Committee urges the Government to take immediate and effective measures in this respect, and to provide information on the results achieved.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1958)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. For a number of years, the Committee has been drawing the Government's attention to certain provisions under which penal sanctions involving compulsory prison labour, pursuant to sections 46 and 51 of the Penal Code (Act No. 148 of 1949), may be imposed in situations covered by the Convention, namely:

- Penal Code: section 282 (insult of a foreign State); 287 (exaggerated news tending to harm the prestige of the State); 288 (participation in a political or social association of an international character without permission); and sections 335 and 336 (seditious assembly, and meetings liable to disturb public tranquillity); and
- the Press Act No. 156 of 1960: sections 15, 16 and 55 (publishing a newspaper for which an authorization has not been granted by the Council of Ministers).

The Committee also previously noted that the abovementioned provisions are enforceable with sanctions of imprisonment for a term of up to one year which involves an obligation to perform labour in prison.

The Committee notes the Government's indication in its report that the Press Act of 1960 had been repealed and replaced by the Media Act No. 108 of 2011, under which the penalty of imprisonment has been replaced by a fine. The Government also indicates that a draft Penal Code has been prepared and is in the process of being adopted. **The Committee expresses the firm hope that, during the process of the adoption of the new Penal Code, the Government will take all the necessary measures to ensure that persons who express political views or views opposed to the established political, social or economic system benefit from the protection afforded by the Convention and that, in any event, penal sanctions involving compulsory prison labour cannot be imposed on them.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Turkmenistan

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2001)

Previous comment

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022. **It requests the Government to provide its reply to these observations.**

Article 1(b) of the Convention. Imposition of forced labour as a method of mobilizing and using labour for purposes of economic development. Cotton production. In its previous comments, the Committee noted with deep concern the continued practice of forced labour in the cotton sector. The Committee also noted that, in its 2021 [conclusions](#) on the application of the Convention by Turkmenistan, the Conference Committee on the Application of Standards, urged the Government to take effective and time-bound measures to ensure that no one, including farmers, public and private sector workers and students, is forced to work for the state-sponsored cotton harvest. To effectively implement its conclusions, the Conference Committee called on the Government to accept a high-level mission of the ILO which would be granted all accommodations so as to carry out its duties, including during the harvest season.

The Committee notes the Government's indication, in its report, that no allegation of the use of forced labour in the cotton sector has been reported to state bodies, judicial authorities, representative organizations of employers and workers, or the Ombudsman's Office. The Government also indicates that the Ombudsman's Office has made recommendations to the Prosecutor General, the Ministry of Internal Affairs, the Ministry of Education, and the heads of the provinces and Ashgabat to strengthen monitoring with a view to preventing forced and child labour, including in cotton harvesting and other agricultural works. In addition, measures are being taken to improve the procedure for concluding employment contracts between farmers and cotton pickers.

The Committee further notes that a high-level mission of the ILO was carried out in Turkmenistan in two phases in 2022: the first phase was undertaken virtually due to the COVID-19-related restrictions in February 2022. A preparatory ILO mission to Turkmenistan took place from 14 to 16 September 2022 to prepare for the second phase of the high-level mission. The objective of this preparatory visit was to (1) further ILO understanding of how the cotton harvest in Turkmenistan was organized from an institutional and practical point of view; (2) discuss the parameters for the second phase of the high-level mission; and (3) discuss the development of a possible development cooperation project. Consequently, the second phase of the high-level mission was undertaken from 14 to 18 November 2022. The main objective of the second phase was to reach agreement on the parameters of a development cooperation project and immediate activities for cooperation between the ILO and the Turkmen constituents.

The Committee notes that as an outcome of the high-level mission, an agreement was reached on a draft road map for cooperation between the ILO and the Government for 2023. In particular, the road map provides for the elaboration of activities in the following six areas: (1) a review of the policy and administrative framework governing the cotton harvest; (2) improvement of labour inspection and law enforcement; (3) promotion of full, productive and freely chosen employment in the cotton sector; (4) improvement of cotton production and harvesting; (5) design and implementation of awareness-raising activities; and (6) promotion of social dialogue in cotton production. In addition, the road map includes activities on the improvement of the legislative framework for the prevention and prohibition of forced labour; the undertaking of a situation analysis on recruitment for cotton picking; improvement of the regulation of seasonal work in agriculture and contractual arrangements; improvement of labour inspection to strengthen oversight; the undertaking of field visits during the 2023 cotton harvest; as well as further enhancement of dialogue between the ILO and the Government. The Committee also

notes that the high-level mission undertook visits to *Mary* and *Lebap* provinces, during which it met with the regional authorities and visited the cotton fields.

The Committee further notes that the ITUC, in its 2022 observations, reiterates once again the continued recourse to the use by the State of forced labour in picking cotton. According to the ITUC, during the 2021 cotton harvest, mobilized persons were forced to work excessively long hours in poor sanitary conditions without access to medical care and compensation for their work. As in the previous years, in order not to participate in cotton harvesting, persons had to pay the amounts representing a substantial part of their income for replacement pickers. The ITUC also points out that the most vulnerable persons to forced labour in the cotton harvest are public sector workers who constitute the main workforce to pick cotton, internal migrant workers, persons receiving treatment for addiction, persons accused of prostitution or alimony delinquency, as well as students at state educational institutions.

While taking due note of the Government's collaboration with the ILO to address the issue of forced labour in cotton harvesting, the Committee once again notes with **concern** the reports of the continued practice of forced labour in the cotton sector. ***The Committee strongly urges the Government to pursue its efforts to ensure the complete elimination of the use of compulsory labour of public and private sector workers, as well as students, in cotton production. In this regard, the Committee strongly encourages the Government to continue to engage in cooperation with the ILO and the social partners to ensure the full application of the Convention in practice, including within the framework of the road map for cooperation between the ILO and the Government. It requests the Government to provide information on concrete measures taken in this respect, including on: (1) a review of the policy and administrative framework governing the cotton harvest; (2) improvement of labour inspection and law enforcement; (3) promotion of full, productive and freely chosen employment in the cotton sector; (4) improvement of cotton production and harvesting; (5) design and implementation of awareness-raising activities; and (6) promotion of social dialogue in the cotton production.***

The Committee is raising other matters in a request addressed directly to the Government.

Uganda

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1963)

Previous comment

The Committee notes with **regret** that the Government's report, which was due since 2019, does not contain replies to its previous comments. In light of its urgent appeal launched to the Government in 2021, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. The Committee previously urged the Government to review and amend a number of provisions punishing certain activities, which might fall within the scope of the Convention, with penalties of imprisonment involving an obligation to perform labour pursuant to the Prisons Regulations (section 61). The provisions in question are as follows:

- provisions of the Public Order and Security Act No. 20 of 1967, empowering the executive to restrict an individual's association or communication with others, independently of the commission of any offence, subject to penalties involving compulsory labour;
- sections 54(2)(c), 55, 56 and 56(a) of the Penal Code, empowering the minister to declare any combination of two or more people an unlawful society and thus rendering any speech,

publication or activity on behalf of, or in support of, such a combination, illegal and punishable with imprisonment; and

- sections 5(8) and 8(4) of the Public Order Management Act, 2013, respectively for disobedience of statutory duty in case of organizing a public meeting without any reasonable excuse, and for disobedience of lawful orders during public meetings.

Regarding the Public Order Management Act of 2013, the Committee notes the decision of the Constitutional Court of Uganda of March 2020 in the case *Human Rights Network Uganda & 4 Ors v. Attorney General (Constitutional Petition 56 of 2013)*. The Committee welcomes the fact that by a majority decision, the Court declared and ordered that section 8 of the Public Order Management Act was unconstitutional and therefore null and void, and that all acts made under that Act are also null and void.

The Committee notes with **concern** from the information of the United Nations (UN) country team in the framework of the Universal Periodic Review of the UN Human Rights Council of November 2021, that hundreds of opposition organizers, campaign staff, members and supporters were arrested and detained, and some were subjected to incommunicado detention, including in military detention facilities, during the electoral period. There were widespread restrictions on political participation, media freedom and freedom of peaceful assembly throughout the electoral campaign. The UN country team also referred to COVID-19 restrictions on public meetings and assemblies, which were applied in a discriminatory manner to target people perceived as opponents of the Government (A/HRC/WG.6/40/UGA/2, paragraphs 12 and 18).

The Committee recalls that legislation regulating the exercise of civil liberties shall not be applied in a manner that could result in the imposition of prison sentences involving compulsory labour on persons who hold or express political views or views opposed to the established political, social or economic system. The Committee points out that, in this regard, the range of activities which must be protected from punishment involving compulsory labour, under *Article 1(a)* of the Convention, comprises the freedom to express political or ideological views (which may be exercised orally or through the press and other communications media), as well as various other generally recognized rights, such as the right of association and of assembly, through which citizens seek to secure the dissemination and acceptance of their views (2012 [General Survey on the fundamental Conventions](#), paragraphs 302 and 303). ***The Committee therefore urges the Government to take the necessary measures to ensure that, both in law and in practice, no penalties involving compulsory prison labour can be imposed on persons who peacefully express political views or views ideologically opposed to the established political, social or economic system. The Committee expresses the firm hope that the necessary action will be taken regarding the revision of the provisions the Public Order and Security Act No. 20 of 1967, the Penal Code (sections 54(2)(c), 55, 56 and 56(a)), and the Public Order Management Act, 2013 (section 5(8)), to ensure the observance of the Convention, and that the Government will soon report on any progress made in this regard. It also requests the Government to provide information on the legal consequences of the above-mentioned decision of the Constitutional Court.***

Article 1(d). Penal sanctions involving compulsory labour as a punishment for having participated in strikes. The Committee previously noted that the Labour Disputes (Arbitration and Settlement) Act, 2006 contains provisions concerning the resolution and settlement of labour disputes which could lead to the imposition of compulsory arbitration procedures, thus making strikes or other industrial action unlawful. Organization of strikes in these circumstances are punishable with imprisonment (involving compulsory prison labour) (sections 28(6) and 29(2) and (3)). The Committee also noted that under sections 33(1) and (2) of the Act, the minister may refer disputes in essential services to the Industrial Court, thus making illegal any collective withdrawal of labour in such services; the violation of this prohibition is punishable with imprisonment.

While the Government previously indicated under the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), that an Amendment Bill, 2019, to the Labour Disputes (Arbitration and Settlement) Act, 2006, was before Parliament for discussion, the Committee notes with **regret** that the Labour Disputes (Arbitration and Settlement) (Amendment) Act adopted in 2020 does not take into account the Committee's recommendations.

The Committee recalls in this regard that, in accordance with *Article 1(d)* of the Convention, persons who organize or peacefully participate in a strike cannot be liable to sanctions involving compulsory labour. Furthermore, when restrictions and prohibitions on the right to strike, connected with the imposition of compulsory arbitration, are enforceable with sanctions involving compulsory labour, they should be limited to the sectors, types of employment or situations where, in conformity with freedom of association principles, restrictions may be imposed on the right to strike itself (such as, essential services in the strict sense of the term or situations of acute national crisis). The Committee refers in this regard to its comments under Convention No. 87 and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). ***The Committee therefore urges the Government to take the necessary measures to ensure that the Labour Disputes (Arbitration and Settlement) Act, 2006, is amended so that workers who participate peacefully in a strike are not liable to sanctions of imprisonment involving compulsory labour. The Committee requests the Government to provide information on any progress made in this respect.***

The Committee is raising other matters in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 29** (Australia, Belarus, Belize, Botswana, Brazil, Cabo Verde, Cambodia, Canada, Chad, Comoros, Cook Islands, Costa Rica, Croatia, Cuba, Czechia, Democratic Republic of the Congo, Denmark, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Eswatini, Ethiopia, France: French Polynesia, Gabon, Ghana, Guatemala, Guyana, Islamic Republic of Iran, Iraq, Ireland, Israel, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libya, Madagascar, Malaysia, Mali, Mauritania, Mongolia, Montenegro, Mozambique, Nepal, Netherlands: Aruba, Nicaragua, Nigeria, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Somalia, Syrian Arab Republic, Uganda); **Convention No. 105** (Afghanistan, Azerbaijan, Barbados, Chad, Comoros, Congo, Cook Islands, Cuba, Czechia, Dominican Republic, Ecuador, Eswatini, Ethiopia, Gabon, Ghana, Grenada, Guatemala, Islamic Republic of Iran, Iraq, Israel, Kenya, Kuwait, Latvia, Lebanon, Lesotho, Liberia, Libya, Mali, Mongolia, Montenegro, Mozambique, Netherlands: Aruba, Nicaragua, Nigeria, Saint Kitts and Nevis, South Sudan, Syrian Arab Republic, Tajikistan, Turkmenistan, Uganda).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 29** (Argentina).

Elimination of child labour and protection of children and young persons

Afghanistan

Minimum Age Convention, 1973 (No. 138) (ratification: 2010)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted the implementation of the various measures taken by the Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD) to prevent child labour, including: the National Child Labour Strategy, 2012, followed by a National Action Plan to prevent child labour in brick kilns; a National Strategy for the Protection of Children at Risk; and a National Strategy for Working Street Children, 2011. However, the Committee noted, that children in Afghanistan are engaged in child labour and often in hazardous conditions, including in agriculture, carpet weaving, domestic work, street work, and brick making. Moreover, 27 per cent of children between the ages of 5 and 17 years (2.7 million children) are engaged in child labour with a higher proportion of boys (65 per cent). Of this, 46 per cent are children between 5 and 11 years of age. At least half of all child labourers are exposed to hazardous working conditions such as dust, gas, fumes, extreme cold, heat or humidity. Moreover, 56 per cent of brick makers in Afghan kilns are children and the majority of these are 14 years of age and below.

The Committee notes that the Government's report contains no new information in this regard. The Committee once again notes with **concern** that a significant number of children under the age of 14 years are engaged in child labour, of which at least half are working in hazardous conditions. **The Committee therefore urges the Government to strengthen its efforts to ensure the progressive elimination of child labour in all economic activities, both in the formal and informal sectors, and requests that the Government provide information on the measures taken in this regard, as well as the results achieved.**

Article 2(1). Scope of application. The Committee noted that according to sections 5 and 13 of the Labour Law, read in conjunction with the definition of a "worker", the Law applies only to labour relations on a contractual basis and, therefore, that the provisions of the Labour Law did not appear to cover the employment of children outside a formal employment relationship, such as children working on their own account or in the informal economy.

Noting the absence of information provided in this regard in the Government's report, the Committee recalls that the Convention applies to all sectors of economic activity and covers all forms of employment and work, whether or not there is a contractual employment relationship. **The Committee therefore requests, once again, that the Government take the necessary measures to ensure that all children, including children working outside a formal employment relationship such as children working on their own account or in the informal economy, benefit from the protection laid down by the Convention. In this regard, the Committee encourages, once more, the Government to review the relevant provisions of the Labour Law in order to address these gaps as well as to take measures to strengthen the capacity and expand the reach of the labour inspectorate to the informal economy with a view to ensuring such protection in this sector.**

Article 7(1) and (3). Minimum age for admission to light work and determination of light work. The Committee previously noted that section 13(2) of the Labour Law sets 15 years as the minimum age for employment in light work in industries and section 31 prescribes a weekly working period of 35 hours for young persons between 15 and 18 years of age. It observed that the minimum age for light work of 15 years is higher than the minimum age for admission to employment or work of 14 years, specified by Afghanistan.

Noting the absence of information provided in this regard by the Government, the Committee once again draws the Government's attention to the fact that *Article 7(1)* of the Convention is a flexibility clause which provides that national laws or regulations may permit the employment or work of persons aged 13–15 years in light work activities which are not likely to be harmful to their health or development and not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority, or their capacity to benefit from the instruction received.

The Committee notes the lack of information contained in the Government's report and recalls once again that *Article 7(4)* permits Member States who have specified a general minimum age for admission to employment or work of 14 years to substitute a minimum age for admission to light work of 12–14 years to that of the usual 13–15 years of age (see General Survey on the fundamental Conventions, 2012, paragraphs 389 and 391). ***In view of the fact that a high number of children under 14 years of age are engaged in child labour in the country, the Committee once again requests that the Government regulate light work activities for children between 12 and 14 years of age to ensure that children who, in practice, work under the minimum age are better protected. The Committee also requests that the Government take the necessary measures to determine light work activities that children of 12–14 years of age are permitted to undertake and to prescribe the number of hours and conditions of such work, pursuant to Article 7(3) of the Convention.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2010)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations of the International Organisation of Employers (IOE) received on 30 August 2017, and the in-depth discussion on the application of the Convention by Afghanistan in the Committee on the Application of Standards at the 106th Session of the International Labour Conference in June 2017.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 106th Session, June 2017)

Articles 3(a) and 7(2)(b) of the Convention. All forms of slavery or practices similar to slavery and effective and time-bound measures. Compulsory recruitment of children for use in armed conflict and providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration. In its previous comments, the Committee noted that the Law on prohibiting the recruitment of child soldiers criminalizes the recruitment of children under the age of 18 years into the Afghan Security Forces. The Committee also noted that a total of 116 cases of recruitment and use of children, including one girl, were documented in 2015. Out of these: 13 cases were attributed to the Afghan National Defence and Security forces; five to the Afghan National Police; five to the Afghan Local Police; and three to the Afghan National Army; while the majority of verified cases were attributed to the Taliban and other armed groups who used children for combat and suicide attacks. The United Nations verified 1,306 incidents resulting in 2,829 child casualties (733 killed and 2,096 injured), an average of 53 children were killed or injured every week. A total of 92 children were abducted in 2015 in 23 incidents.

In this regard, the Committee noted the following measures taken by the Government:

- The Government of Afghanistan signed an Action Plan with the United Nations on 30 January 2011 to end and prevent the recruitment and use of children by the Afghan National Security Forces, including the Afghan National Police, Afghan Local Police and Afghan National Army.
- A roadmap to accelerate the implementation of the Action Plan was endorsed by the Government on 1 August 2014.
- The Government endorsed age-assessment guidelines to prevent the recruitment of minors.
- In 2015 and early 2016, three additional child protection units were established in Mazar e Sharif, Jalalabad and Kabul, bringing the total to seven. These units are embedded in Afghan National Police recruitment centres and are credited with preventing the recruitment of hundreds of children.

The Committee notes that the Conference Committee recommended that the Government take measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children into armed forces and groups. It further recommended the Government to take immediate and effective measures to ensure that thorough investigations and prosecutions of all persons who forcibly recruit children for use in armed conflict are

carried out, and that sufficiently effective and dissuasive penalties are imposed in law and practice. Finally, the Conference Committee recommended the Government to take effective and time-bound measures to provide for the rehabilitation and social integration of children who are forced to join armed groups.

The Committee notes the IOE's indication that children are engaged in armed conflict in Afghanistan. The Committee notes the Government representative's indication to the Conference Committee that the Law on the Prohibition of Children's Recruitment in the Armed Forces (2014), along with other associated instruments, has helped prevent the recruitment of 496 children into national and local police ranks in 2017. Moreover, the Ministry of Interior, in cooperation with relevant government agencies, was effectively implementing Presidential Decree No. 129 which prohibits, among others, the use or recruitment of children in police ranks. Inter-ministerial commissions tasked with the prevention of child recruitment in national and local police have been established in Kabul and the provinces, and child support centres have been set up in 20 provinces, with efforts under way to establish similar centres in the remaining provinces. Finally, the Committee notes the Government's indication that the National Directorate of Security has recently issued Order No. 0555, prohibiting the recruitment of underage persons and that the Order is being implemented in all security institutions and monitored by national and international human rights organizations. **While acknowledging the complexity of the situation on the ground and the presence of armed groups and armed conflict in the country, the Committee requests the Government to continue its efforts in taking immediate and effective measures to put a stop, in practice, to the recruitment of children under 18 years by armed groups, the national armed forces and police authorities, as well as measures to ensure the demobilization of children involved in armed conflict. It once again urges the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of persons who forcibly recruit children under 18 years of age for use in armed conflict are carried out, and that sufficiently effective and dissuasive penalties are imposed in practice. Finally, it requests the Government to take effective and time-bound measures to remove children from armed groups and armed forces and ensure their rehabilitation and social integration, and to provide information on the measures taken in this regard and on the results achieved.**

Articles 3(b) and 7(2)(b). Use, procuring or offering of children for prostitution and providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. The Committee previously noted that concerns remained regarding the cultural practice of *bacha-bazi* (dancing boys), which involves the sexual exploitation of boys by men in power, including the Afghan National Defence and Security Forces' commanders. It also noted that there are many child victims of *bacha bazi*, particularly boys between 10 and 18 years of age who have been sexually exploited for long periods of time. The Committee further noted that some families knowingly sell their children into forced prostitution, including for *bacha-bazi*.

The Committee notes that the Conference Committee recommended the Government to take immediate and effective measures to eliminate the practice of *bacha-bazi*. It also recommended the Government to take effective and time bound measures to provide for the rehabilitation and social integration of children who are sexually exploited.

The Committee notes the Government representative's indication to the Conference Committee that the Child Protection Law has been submitted to Parliament for adoption and makes the practice of *bacha-bazi* a criminal offence. The Committee also notes the new Law on Combating Human Trafficking in Persons and Smuggling of Migrants of 2017 (Law on Human Trafficking of 2017). It notes that section 10(2) of this Law punishes the perpetrator of trafficking to eight years' imprisonment when the victim is a child or when the victim is exploited for the purpose of dancing. **The Committee urges the Government to take the necessary measures to ensure the effective implementation of the prohibition contained in section 10(2) of the Law on Human Trafficking of 2017. It requests the Government to provide information on the results achieved to effectively eliminate the practice of bacha-bazi, to remove children from this worst forms of child labour and to provide assistance for their rehabilitation and social integration. It also requests the Government to provide information on the adoption of the Child Protection Law, and its effective implementation.**

Article 7(2). Clauses (a) and (e). Preventing the engagement of children in the worst forms of child labour and taking into account the special situation of girls. Access to free basic education. The Committee previously noted the Government's statement that as a result of the past three decades of conflict, insecurity and drought, children and youth are the most affected victims, a majority of whom are deprived of proper

education and training. The Committee noted that Afghanistan is among the poorest performers in providing sufficient education to its population. A large number of boys and girls in 16 out of 34 provinces had no access to schools by 2013 due to insurgents' attacks and threats that lead to the closure of schools. In addition to barriers arising from insecurity throughout 2015, anti-government elements deliberately restricted the access of girls to education, including closure of girls' schools and a ban on girls' education. More than 369 schools were closed partially or completely, affecting at least 139,048 students, and more than 35 schools were used for military purposes in 2015. Finally, the Committee noted the low enrolment rate of girls, in particular at the secondary school level, high dropout rates especially in rural areas owing to a lack of security in the journey to and from school, and the increased number of attacks on girls' schools and written threats warning girls to stop going to school by non-state armed groups.

The Committee notes the Government representative's statement at the Conference Committee that many households respond to poverty by taking their children out of school and forcing them into labour. The Government indicates that child labour is not only a law enforcement matter but a fundamental problem which requires a comprehensive understanding and a robust response mechanism. With a view to providing preschool support to children under the age of six, the Ministry of Labour, Social Affairs, Martyrs and Disabled has established over 366 local kindergartens which house over 27,000 children. The Government also indicates it is taking strong action against the exploiters as well as the families who knowingly force their children into prostitution and expects a sharp decline in the practice in the coming years. Finally, the Committee notes the Government's indication that school burnings and the imposition of bans in Taliban-controlled areas prevented girls and children from attending school. ***While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take the necessary measures to raise awareness among households that education is key in preventing the engagement of children in the worst forms of child labour. Additionally, it once again urges the Government to take the necessary measures to improve the functioning of the education system and to ensure access to free basic education, including by taking measures to increase the school enrolment and completion rates, both at the primary and secondary levels, particularly of girls.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Antigua and Barbuda

Minimum Age Convention, 1973 (No. 138) (ratification: 1983)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 3(1) and (2) of the Convention. Minimum age for admission to hazardous work and determination of these types of work. The Committee previously noted the Government's indication that the unions and employers' federation were consulted regarding the activities and occupations which should be prohibited to persons below 18 years of age. It noted that although a recommendation was made, it was not submitted before the National Labour Board, as it was the Government's aim to revamp the occupational health and safety legislation. Thereafter, the Committee noted the Government's statement that the proposed amendments to the provisions of the Labour Code on occupational health and safety have been circulated to Cabinet, but have not yet been adopted. It further noted the Government's indication that technical assistance was sought in relation to new and separate occupational health and safety legislation.

The Committee notes the Government's indication in its report that the National Labour Board is currently reviewing the occupational health and safety legislation. The Government states that it has noted the Committee's comments and that it will act accordingly. The Committee notes with **regret** that the list of hazardous types of work prohibited for children under 18 years of age has still not been adopted. The Committee therefore once again reminds the Government that *Article 3(1)* of the Convention provides that the minimum age for admission to any type of employment or work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety, or morals of young persons, shall not be less than 18 years. It also reminds the Government that, under the terms of *Article 3(2)* of the Convention, the types of hazardous employment or work shall be determined by national laws or regulations or by the

competent authority, after consultation with the organizations of employers and workers concerned. ***Observing that the Convention was ratified by Antigua and Barbuda more than 30 years ago, the Committee urges the Government to take the necessary measures to ensure that a list of activities and occupations prohibited for persons below 18 years of age is adopted in the near future, in accordance with Article 3(1) and (2) of the Convention. It encourages the Government to pursue its efforts in this regard through amendments to the occupational health and safety legislation, and to provide information on progress made. Lastly, it requests that the Government provide a copy of the amendments to the occupational health and safety legislation once adopted.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Argentina

Minimum Age Convention, 1973 (No. 138) (ratification: 1996)

Previous comment

The Committee notes the observations of the General Confederation of Labour of the Argentine Republic (CGT RA), received on 1 September 2021, and of the Confederation of Workers of Argentina (CTA Autonomous), received on 31 August 2021.

Article 1 of the Convention. National policy for the effective abolition of child labour. In its previous comments, the Committee noted the National Plan for the Eradication of Child Labour and the Protection of Work by Young Persons (2018-22) and encouraged the Government to pursue its efforts towards the progressive elimination of child labour.

The Committee notes that, in response to the previous observations of the GGT RA concerning the need to strengthen the Provincial Commissions for the Prevention and Eradication of Child Labour (COPRETI), the Government indicates in its report that, with a view to maintaining permanent links between the provinces and the National Committee for the Eradication of Child Labour (CONAETI), provincial representatives (either the highest labour authority in the province or COPRETI coordinators) have been included on the board of the CONAETI. It also notes the creation of the Federal Strengthening Programme for the Eradication of Child Labour (Decision No. 268/2021 of the Ministry of Labour, Employment and Social Security), with the intention of reinforcing the role of institutions in territorial entities and/or value chains, which give rise to risks of the use of child labour, including through the training of leaders to promote childhood free from child labour. The Government adds that it is working on the establishment of provincial networks of enterprises involved in action to address child labour with a view to focusing more deeply on value chains. With ILO support, action has been initiated to eradicate child labour in the agricultural sector, and particularly in the production of tomatoes, garlic and cotton. The Committee notes the emphasis placed by the CGT RA on trade union participation in the design of policies to combat child labour, as reflected in the agreement concluded in 2021 between various unions and the Government with a view to articulating joint training activities for the prevention and eradication of child labour.

The Committee also takes note of the findings of the Survey of the Activities of Boys, Girls and Young Persons (EANNA) 2017, provided by the Government. According to the Survey, 10 per cent of boys and girls aged between 5 and 15 years in the country (763,544 boys and girls) are engaged in at least one productive activity (whether for the market, for own consumption or intensive unpaid domestic work involving ten or more hours of work a week), with a higher incidence in rural areas (19.8 per cent) and in the north-east and north-west of Argentina. Of a total of 781,513 boys, girls and young persons who work (between 5 and 17 years of age), 613,330 may be considered to fall within the ILO definition of child labour.

The Committee welcomes the efforts made by the Government for the strengthening of cooperation with provincial bodies responsible for combating child labour, and the compilation and publication of updated and disaggregated statistical data on the characteristics of child labour throughout the country, which will provide a basis for directing and monitoring the public policies adopted for its eradication. ***The Committee therefore encourages the Government to continue its efforts, in collaboration with the social partners, for the elimination of child labour in all sectors, and requests it to provide information on this subject. The Committee also requests the Government to continue providing updated information, where possible disaggregated by age and gender, on the nature, extent and trends of child labour in the country, including in the informal economy.***

Article 2(3). Compulsory schooling. The Committee notes that, according to the EANNA, although school attendance by children (from 5 to 15 years of age) is almost universal (98.7 per cent of those living in urban areas and 96.6 per cent in rural areas), the intensity of the working day is an indicator that runs counter to educational success. Of all children who carry out at least one productive activity in urban areas, 21 per cent arrive late at school, 19.4 per cent do not attend school frequently and 17.3 per cent have repeated a school year at least once; while among those in rural areas, 15.2 per cent arrive at school late, 17.3 per cent do not attend school frequently and 22.4 per cent have repeated a school year at least once. In this regard, the CTA Autonomous indicates that the tension between child labour and education takes the form of a deterioration in educational trajectories and emphasizes that, among those who work, the requirement to repeat years, late arrivals at school and frequent absences occur more often than for those not engaged in productive work, irrespective of whether the work is for the market, household consumption or domestic or intensive care work.

The Committee notes with **concern** this information, which indicates that children under the minimum age are engaged in work which prevents them from attending school regularly, achieving a good educational performance and benefiting from the education received. The Committee recalls in this respect that to prevent and combat child labour, compulsory education should be effectively implemented so as to ensure that all children under the minimum age are attending school (2012 [General Survey on the fundamental Conventions](#), paragraph 375). ***The Committee therefore requests the Government to take all the necessary measures to: (i) identify the causes that lead children under the minimum age for admission to employment (16 years) to undertake work that prevents them from attending school; and (ii) ensure that all children under the minimum age are able to complete compulsory schooling in practice. In this regard, it requests the Government to continue providing updated statistical data on school attendance, drop-out, repetition and completion rates for children under 16 years of age.***

Article 7(1). Light work. In its previous comments, the Committee noted that, by virtue of section 17 of Act No. 26390/2008 on the prohibition of child labour and the protection of young workers, persons over 14 and under 16 years of age may work in enterprises owned by their father, mother or guardian for no more than three hours a day and 15 hours a week, on condition that the work is not hazardous or unhealthy and that they can continue attending school. However, the Committee notes that, according to the EANNA, in urban areas, 25.5 per cent of children (between 5 and 15 years of age) who work do so for between ten and 36 hours a week, and 8.5 per cent work for more than 36 hours a week. In rural areas, 28.5 per cent of children who work do so between ten and 36 hours a week, and 6.1 per cent for more than 36 hours a week. The Committee observes that, according to this statistical data, there are children engaged in light work for a number of hours that exceeds the limit established by the national legislation, and that some of them are even under the age established for such work. In this regard, the Committee wishes to recall that, in accordance with *Article 7(1)* of the Convention, children who are of the age to undertake light work may only carry out work that is not likely to be harmful to their health or development, and that is not such as to prejudice their attendance at school or their capacity to benefit from the instruction received. ***The Committee therefore requests the Government to take the necessary measures to: (i) identify the causes that lead children, even under***

the minimum age, to undertake light work, activities that exceeds the maximum number of hours established by the national legislation; and (ii) ensure that only children over 14 years of age undertake light work and that in no case does such work exceed the number of hours permitted by national laws and regulations (up to 15 hours a week).

Application in practice and labour inspection. The Committee notes the Government's indication that in 2020 the Coordinating Unit for the Prevention of Child Labour and the Protection of Young Workers became the Inspection Department for Work by Children and Young Persons and Evidence of Labour Exploitation (DITIAEIEL), the functions of which include promoting the continuous strengthening of labour inspection systems, furthering legal provisions and preparing information materials to optimize inspection, and technical assistance to labour jurisdictions. The Government also refers to Decision No. 425/2019 of the Secretariat of Labour establishing the procedure for action by the National Labour Inspectorate in cases of the presence of persons under 16 years of age engaged in work, which sets out the guidelines to be taken into account by labour inspectors when dealing with victims of child labour. The Committee notes the Government's indication that, between January 2020 and the first semester of 2021, a total of 17 criminal charges were brought for child labour under section 148bis of the Criminal Code, and it emphasizes that, despite the impact of the pandemic on inspection, all denunciations by citizens of work by children and young persons in violation of the labour regulations were subject to inspection. The Committee further notes that the CGT RA, in its observations on the Worst Forms of Child Labour Convention, 1999 (No. 182), refers to the lack of coordination and inadequacy of the number of inspectors to detect situations of child labour. ***Taking into account the number of children between the ages of 5 and 15 years who, according to the EANNA, are engaged in work, the Committee requests the Government to continue taking all the necessary measures to strengthen the capacities of the labour inspection system in relation to child labour with a view to ensuring its presence in all the regions of the country and economic sectors, including the informal economy. It once again requests the Government to provide information on the number of inspections carried out in relation to child labour, if possible disaggregated by region and sector of the economy, and on the nature and number of violations detected, the number of convictions and the type of sanctions imposed, including the reasons for the low number of criminal charges brought in light of the high number of very young children engaged in light work.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Previous comment

The Committee notes the observations of the General Confederation of Labour of the Argentine Republic (CGT RA), received on 1 September 2021.

Article 3 of the Convention. Worst forms of child labour. Clause (d). Hazardous types of work. In its previous comments, the Committee noted the adoption of Decree No. 1117/2016 determining the list of hazardous types of work prohibited for persons under 18 years of age and requested the Government to provide information on the effect given to the Decree. The Committee notes with **concern** that, according to the Survey of Activities by Boys, Girls and Young Persons (EANNA) 2016-17, a total of 538,871 boys, girls and young persons between the ages of five and 17 years engaged in work perform hazardous types of work: 117,377 in rural areas and 421,494 in urban areas. Moreover, one in every three boys, girls and young persons are tired by the work they perform; around one in three indicate that they suffer from excessive cold or heat in carrying out their work; and one in four boys and girls who work in urban areas carry out their work in the street or a means of transport. Moreover, the CGT RA indicates in its observations that boys and girls under 18 years of age are engaged in types of work that are prohibited by Decree No. 1117/2016. ***The Committee urges the Government to take the necessary measures to ensure that the legislation on hazardous types of work is applied effectively so that no boy, girl or young person under 18 years of age is engaged in types of work which, by their***

nature or the circumstances in which they are carried out, are likely to harm their health, safety or morals. In this regard, it requests the Government to provide information on the number of violations of Decree No. 1117/2016 that have been detected and the penalties imposed.

The Committee is raising other matters in a request addressed directly to the Government.

Australia

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2006)

Previous comment

Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for the production of pornography and for pornographic performances. Provincial legislation. New South Wales (NSW). In its previous comments, the Committee noted that Division 15A of the Crimes Act which deals with offences related to child pornography applied only to children under 16 years of age. The Committee therefore urged the Government to take the necessary measures to extend this prohibition up to 18 years.

The Committee notes the Government's reference in its report to section 91D of the Crimes Act concerning promoting or engaging in acts of child prostitution which include sexual services by children under 18 years of age. The Government also indicates that where a relevant act involving a child over the age of 16 occurs without that child's consent, numerous other offences may also apply, including sexual assault and related offences under Division 10 of Part 3 of the Crimes Act, and offences relating to voyeurism and the recording and distribution of intimate images under Divisions 15B and 15C of the Crimes Act. The Government states that despite the distinction drawn between children under the age of 16 and 18 for child abuse material offences, the NSW Government considers that the commercial sexual exploitation of children under the age of 18 is prohibited in NSW.

While noting that the NSW legislation provides protection to children under 16 years of age regarding their involvement in the production of child abuse material and to children above 16 years if they do not consent, the Committee once again emphasizes the importance of distinguishing between the age of sexual consent and the age for protection from commercial sexual exploitation. The Committee considers that all persons under the age of 18 years are entitled to be protected absolutely from commercial sexual exploitation, and that neither the age of consent nor the physical appearance of a child affects the obligation to prohibit the worst forms of child labour. ***Therefore, recalling that by virtue of Article 3(b) of the Convention the use, procuring or offering of a child under 18 years of age for the production of pornography or pornographic performances is considered to be one of the worst forms of child labour and, under the terms of Article 1, this worst form of child labour shall be prohibited as a matter of urgency, the Committee once again urges the Government to take the necessary measures to specifically extend this prohibition up to 18 years.***

Clause (c). Use, procuring or offering of a child for illicit activities. Provincial legislation. Northern Territory. In its previous comments, the Committee noted the Government's information that the Department of Justice would develop a proposal to the Minister of Justice and Attorney-General, for considering a provision being inserted to the Criminal Code Act prohibiting the use, procuring or offering of a child for the purpose of illicit activities. It therefore urged the Government to take the necessary measures to prohibit the use, procuring or offering of a child under 18 years for illicit activities.

The Committee notes with **satisfaction** that a new provision which prohibits the recruitment of children under 18 years to engage in criminal activity has been introduced under section 148F of the Criminal Code Amendment Act No. 6 of 2021.

The Committee is raising other matters in a request addressed directly to the Government.

Barbados

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 3(a) of the Convention. Worst forms of child labour. Sale and trafficking of children. The Committee previously noted the adoption of the Transnational Organized Crime (Prevention and Control) Act in 2011, section 8 of which criminalizes the trafficking of persons for the purposes of labour and sexual exploitation.

The Committee takes due note of the Government's information in its report that the Transnational Organized Crime (Prevention and Control) Act of 2011 was repealed and replaced by the Trafficking in Persons Prevention Act 2016-9, which contains comprehensive provisions addressing the issue of trafficking. According to section 4, the trafficking of children for labour and sexual exploitation is punishable by a fine of 2 million Barbadian dollars (BBD) (about US\$990,099), life imprisonment or both. The Committee notes, however, that according to the Government's written replies to the list of issues of the Committee on the Elimination of Discrimination against Women (CEDAW) of 2017, since 2015, no new arrests and charges have been made in relation to trafficking (CEDAW/C/BRB/Q/5-8/Add.1, paragraph 52). In its concluding observations of 2017, the CEDAW expressed its concern that Barbados remains both a source and a destination country for women and girls, including non-nationals, who are subjected to trafficking for purposes of sexual exploitation and forced labour, as a result of high unemployment, increasing levels of poverty and the weak implementation of anti-trafficking legislation. The CEDAW was also concerned about the lack of information on the number of complaints, investigations, prosecutions and convictions related to the trafficking of women and girls (CEDAW/C/BRB/CO/5-8, paragraph 25). The Committee on the Rights of the Child (CRC) similarly expressed its concern at the high level of internal trafficking of children, the lack of information on the situation in general and the lack of effective measures to address and prevent the sale and trafficking of children in its concluding observations of 2017 (CRC/C/BRB/CO/2, paragraph 58). ***The Committee therefore requests the Government to take the necessary measures to ensure the effective implementation of the Trafficking in Persons Prevention Act 2016-9, particularly in relation to the trafficking of children. It also requests the Government to provide information on the application of section 4 of the Act in practice, including the number and nature of offences reported, investigations, prosecutions, convictions and penal sanctions imposed.***

Articles 3(d) and 4(1). Determination of hazardous work. The Committee previously noted that, while section 8(1) of the Employment (Miscellaneous Provisions) Act prohibits the employment of a young person in any work that by its nature or the circumstances in which it is done is likely to cause injury to his/her health, safety or morals, the national legislation does not contain a determination of these types of work, as required under *Article 4(1)* of the Convention. The Government indicated that the formulation of a list of types of hazardous work prohibited to persons under 18 years of age was being considered. The Committee also noted that the Safety and Health at Work Act 2005 entered into force in January 2013 and that draft regulations under the provisions of this were forwarded for comments to the representative employers' and workers' organizations.

The Committee notes the Government's repeated indication that the types of hazardous work prohibited to persons under 18 years of age are addressed in specific pieces of legislation, including the Factories Act, the Pesticide Control Regulations, the Protection of Children Act and the Employment (Miscellaneous Provisions) Act. However, the Committee observes that these provisions together do not constitute a comprehensive determination of the types of hazardous work prohibited for persons under 18 years of age. The Committee also notes the Government's statement that none of the draft regulations under the Safety and Health at Work Act deal with this issue. Considering that it has been referring to this issue since 2004, the Committee must express its **deep concern** at the absence of a comprehensive list of the types of hazardous work prohibited for children. The Committee once again draws the Government's attention to *Article 4(1)* of this Convention, according to which the types of work referred to under *Article 3(d)* must be determined by national laws or regulations or by the competent authority, taking into consideration relevant international standards, in particular Paragraph 3 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190). ***The Committee therefore urges the Government to take the necessary measures to ensure that the determination of types of hazardous work prohibited for persons under the***

age of 18 is included in national legislation, after consultation with the organizations of employers and workers concerned, and to provide information on any progress made in this regard.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Belize

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

Previous comment

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee notes with **interest** the adoption in 2022 of the Belize National Child Labour Policy and Strategy 2022-2025, which was developed with the technical support of the ILO and in consultation with the social partners and other relevant stakeholders. The Policy has four objectives: (1) to address existing legislative and information gaps, providing necessary legal protection for all children who are engaged or potentially engaged in child labour; (2) to increase compliance with labour laws for the benefit of children; (3) to substantially reduce barriers to school access and ensure continuous school attendance throughout the legal age for every child; (4) to ensure adequate support and economic resilience for children and their families as a way to pre-empt engagement in child labour. Key strategies contemplated in the Policy include, among others, building awareness among children, their families and society about the danger of child labour; strengthening data collection on child labour; identification of working undocumented child migrants; strengthening mechanisms to reduce child labour in the tourism industry; and extending the social protection floor.

The Committee notes from the statistical information contained in the Policy that, as of 2013, the child labour rate was 3.2 per cent (equivalent to 3,528 children). It also notes that the Mennonites were found to have the highest child labour rate at 9.5 per cent, two and a half times as high as any other ethnic group.

The Committee further notes the Government's indication in its report that a Child Labour Secretariat and Inspectorate was established in the Labour Department, which shall focus on child labour inspections, education and awareness-raising programs, and information gathering and reporting. Between 2019 and 2021, a total of 30 training sessions on child labour were conducted for different government entities and stakeholders, including the Banana, Sugar and Citrus industries, the tourism industry, the National Garifuna Council, and the Spanish Lookout (Mennonite) in the Cayo district. ***The Committee requests the Government to provide information on the measures adopted to ensure the progressive elimination of child labour, including among Mennonite children, under its National Child Labour Policy and Strategy 2022-2025, and the results achieved. In this regard, it requests the Government to continue to provide updated statistical information on the nature, extent, and trends of child labour, indicating the sectors of economic activity where child labour is more prevalent. Finally, it requests the Government to provide information on the activities of the Child Labour Secretariat and Inspectorate, including on the number of child labour inspections carried out, the infringements detected, and the penalties applied.***

With regard to the issues raised under Articles 2(1), 3(2), 7 and 9(3), the Committee requests the Government to see the consolidated comments at the end.

Article 2(1) Scope of application. In response to its previous comments concerning the existence of different minimum ages, the Committee takes due note that the Government indicates that the Legislative Review Committee (LRC) that was established to review the national legislation concerning child labour made recommendations to amend the respective sections of the Shops Act, Chapter 287,

and the Labour Act, Chapter 297 to ensure that the minimum age specified applies to all sectors of the employment and not only to industrial undertakings and shops.

Article 3(2). Determination of types of hazardous work. The Committee recalls that the LRC had recommended the insertion into the Labour Act of a hazardous work list.

Article 7. Light work. The Committee recalls that the LRC had recommended to raise the minimum age for light work from 12 to 13 years and adopt a list of types of light work.

Article 9(3) Registers of employment. The Committee recalls that the LRC had recommended deleting section 163 of the Labour Act, which limited the obligation to keep registers of employees under the age of 18 years to public and private industrial undertakings, and to replace it with a general requirement for all employers to prepare and keep one or more registers containing information of each worker available for inspection.

Noting the Government's indication that the review of the legislative proposals made by the LRC and by the Labour Advisory Board was completed, and later forwarded to the Minister of Labour, Local Government and Rural Development for further action, the Committee hopes the proposed amendments will be adopted as soon as possible to ensure that:

- (i) the minimum age declared by the Government (14 years) is respected in all type of work undertaken by children, as well as in all sectors of economic activity;***
- (ii) a list of types of hazardous work is approved, in consultation with the organizations of employers and workers concerned, and incorporated into the labour legislation;***
- (iii) no child below 12 years of age be authorized to perform light work, and a list of types of light work is adopted;***
- (iv) all employers keep one or more registers containing information of each worker available for inspection.***

It requests the Government to provide information on any progress made in this regard as well as a copy of the new legislation once adopted.

Benin

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Previous comment

The Committee notes the observations of the International Organisation of Employers (IOE) received on 29 August 2022, as well as those of the International Trade Union Confederation (ITUC) received on 1 September 2022. It also notes the detailed discussion that was held by the Committee on the Application of Standards (the Conference Committee) at the 110th Session of the International Labour Conference (June 2022), regarding the application of the Convention by Benin, as well as of the Government's report.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

Article 3(a) and 7(1) of the Convention. Worst forms of child labour and penalties. Vidomégon children. The Committee notes that the Conference Committee, while acknowledging the initiatives taken by the Government, noted with deep concern the persistent and widespread practices related to the worst forms of child labour, including *vidomégon* children. The Conference Committee requested the Government to strengthen its efforts to protect children under 18 years of age from all forms of forced labour and commercial sexual exploitation, particularly *vidomégon* children, with specific attention provided to girls. Moreover, the Committee notes that the ITUC states, in its observations, that while

the difficulties to access and inspect households, previously highlighted by the Government, need to be resolved in order to be able identify the presence of abuse, the exploitation of *vidomégon* children often takes place outside the household, since 90 per cent of the children do not attend school and are employed at markets and in the street trade or are victims of prostitution. The Committee notes that the IOE underscores that although the legislation in force makes school attendance obligatory for a child placed with a host family and prohibits the use of the child for domestic tasks, the prevalence of these unacceptable practices clearly reveals the many obstacles to implementing existing regulations.

In this regard, the Committee notes the Government's indication in its report that Benin is continuing its efforts to improve the protective legal framework for child victims of the worst forms of child labour. The Government indicates that 218 investigations into ill-treatment of children were undertaken in 2020, 153 in 2021 and 94 from January to June 2022. Moreover, in 2022, 15 cases of *vidomégon* children were heard, with both perpetrators and parents summoned before the juvenile court. Three children were reintegrated, and the others returned to their families by decision of the juvenile court. However, the Government also indicates that between 2019 and 2021, a total of 1,119 child victims of internal trafficking comparable to the situation of *vidomégons* were identified and received by the Social Protection Centres (SPCs), which represents a far higher number of victims than the number of investigations carried out and, above all, the number of cases coming before the juvenile court. ***The Committee urges the Government to intensify its efforts, in collaboration with the employers' and workers' representative organizations, to protect children under 18 years of age from all forms of forced labour or commercial sexual exploitation, particularly vidomégon children. It again requests the Government to take the necessary measures to ensure, as a matter of urgency, that thorough investigations and prosecutions are conducted of persons subjecting children under 18 years of age to forced labour or commercial sexual exploitation, and that sufficiently dissuasive penalties are imposed in practice. The Committee requests the Government to provide information on the results achieved in this regard in its next report.***

Sale and trafficking of children. The Committee notes that the Conference Committee urged the Government to strengthen the capacity to conduct investigations and prosecutions of persons subjecting children to sale and trafficking, and to ensure that sufficiently effective and dissuasive penalties are imposed in practice.

The Committee notes the ITUC's observations that the initiatives put in place to identify child victims of sale and trafficking are poorly adapted and ineffective. In its observations, the IOE adds that this question must be examined while bearing in mind that the practices of trafficking children from and to neighbouring countries are widespread and that although it may be difficult to identify high risk areas and vulnerable groups in advance, it is fundamental to be aware of them to be able to define priorities and allocate resources effectively.

In this regard, the Committee notes the information from the Government's report that action is being taken to strengthen the capacities of the actors involved in combating trafficking. For example, in September 2022 training was provided for magistrates as part of the Regional Project to Prevent the Trafficking of Persons in the Gulf of Guinea (PRALTPGG) coordinated by the Ministry of Development and Coordination of Government action. The Government recognizes however that additional financial resources must be mobilized to reinforce activities in the next two years. Effectively, the Committee observes, according to the table giving combined data from the courts of nine towns, provided with the Government's report, between 2019 and 2022, 102 prosecutions came before the courts, with 82 convictions for the trafficking of children, but only three prosecutions were filed in respect of the sale of children, with no convictions. ***The Committee urges the Government to strengthen its efforts better to identify the cases of sale and trafficking of children under 18 years of age and ensure the effective implementation and enforcement of its legislation, including by conducting thorough investigations and prosecutions of persons who engage in the sale and trafficking of children under 18 years of age. It requests the Government to provide information on the results obtained, in particular the number***

of investigations, prosecutions, convictions and penalties imposed for the trafficking of children under the age of 18 years.

Article 5. Monitoring mechanisms. The Conference Committee urged the Government to strengthen the capacity, including of inspections, to conduct investigations and prosecutions of persons subjecting children to the worst forms of child labour, including commercial sexual exploitation, sale and trafficking and dangerous work, especially in mines and quarries. In this regard, the Committee notes the information provided by the Government that the strengthening of the capacities of certain structures, including the inspections, is a constant part of the strategy to combat the worst forms of child labour in Benin. Several reinforcement efforts had been undertaken, including the organization by the Government of 4,634 inspection visits to apprenticeship centres, and mines and quarries between 2019 and 2021; the organization in 2020 of training for the staff of the Republican Police on judicial protection for children at the SOS Children's Village at Abomey Calavi; the organization in 2020 of a training workshop for protection focal points for children of the Republican Police (police officers); and the organization in May 2022, by the Ministry of Labour of training for 70 actors (labour inspectors, social assistants, judicial police officers, juvenile court judges, members of civil society) on the procedures and protocols for monitoring child labour. ***The Committee requests the Government to continue to take measures and provide the training required to the police and other bodies responsible for enforcing the law to combat the worst forms of child labour, particularly the trafficking of children and dangerous work in mines and quarries. The Committee also requests the Government to continue to provide information on the functioning of the labour inspection services, including on specific measures to strengthen the services' capacity to identify the worst forms of child labour and the results obtained. Finally, it requests the Government to provide the results of labour inspections into the mines and quarries, including the number of violations detected and penalties imposed.***

Articles 6 and 7(2). Programmes of action and effective and time-bound measures. Clauses (a) and (b). Prevent the engagement of children in the worst forms of child labour and provide assistance for their removal from these forms of labour. Children working in mines and quarries. The Conference Committee urged the Government to take effective and time-bound measures to protect children from hazardous work in the mining and quarrying sector and provide statistical data on the number of children removed from this hazardous work and provide information related to the rehabilitation and social integration measures.

The Committee notes that the ITUC, while acknowledging the implementation by the Government of initiatives such as raising the awareness of actors on the mining sites, occupational safety and health training courses and, working with UNICEF, putting monitoring committees in place, observed that it was imperative for the Government to pursue and reinforce its prevention efforts.

The Committee notes the Government's indication in its report that, despite the prohibition by the legislation in force of child labour in mines and quarries, children have been observed working in informal, artisanal mines, to varying degrees depending on the regions of the country and the household revenues. In this regard, the Committee notes that during the Conference Committee, the Government representative referred to a specific study launched in March 2022 to assess the magnitude of the phenomenon precisely. It is envisaged that the study will be accompanied by a three-year plan of action for targeted and significant intervention in the mining sector over the coming years. ***The Committee urges the Government to take, without delay, the necessary measures to ensure the protection of children engaged in hazardous work in mines and quarries, including within the framework of the triennial plan, and to provide information on the progress made in this regard. It again requests the Government to provide specific statistical data on the number of children protected against hazardous work in the mining and quarrying sector and who have been removed, and to indicate the measures provided for their rehabilitation and social integration. It also requests the Government to provide statistics compiled by the study into the magnitude of child labour in mines and quarries.***

Sale and trafficking of children. The Committee notes that the Conference Committee urged the Government to strengthen the rehabilitation and social integration measures provided to children victims of the worst forms of child labour, commercial sexual exploitation, the sale and trafficking of children and those in hazardous work.

The Committee notes the information provided by the Government regarding action undertaken to prevent violence against and exploitation and abuse of children, including trafficking, such as: the training session for the social actors on protection of the child; the joint awareness-raising visits by the Ministries of Labour and of Social Affairs to the large Benin markets; and the awareness-raising tour on child trafficking led by the same ministries to bulk carriers, Social Promotion Centres (SPCs) and community relays. The Government also indicates that data compiled by the Integrated System for Family, Women and New-generation Children Data reveal that 2,274 trafficked children, of which 1,192 were girls, were received by the SPCs and its partner structures between 2019 and 2021. At total of 1,119 of these children were victims of internal trafficking comparable to the situation of *vidomégons* and 711 were victims of cross-border trafficking. All SPC directors receiving a child victim apply the Minimum Intervention Package (PMI) which is the standard operating procedure for welcoming, listening and providing holistic care to victims, and also extends to their reintegration. Where the children are victims of cross-border trafficking, they are cared for under regional guidelines, which are implemented in coordination with the West African Network for the Protection of Children.

The Committee encourages the Government to continue its efforts to prevent children from becoming victims of trafficking, to remove children from the worst forms of child labour and to ensure their rehabilitation and social integration. The Committee also requests the Government to take effective, time-bound measures to strengthen the capacities of the centres and other social structures with regard to rehabilitation and social integration of children victims of trafficking and provide information on the results achieved in that respect.

Application of the Convention in practice. The Committee notes that the Conference Committee recommended that the Government develop a multidisciplinary time-bound action plan, with ILO technical assistance and in close cooperation with the social partners and other relevant civil society organizations with relevant competencies and expertise, including UNICEF. It also requested the Government to develop a robust statistical machinery to allow an efficient follow-up of the evolution of the practices of *vidomégon* children, the sale and trafficking of children and children working in mines and quarries.

The Committee notes, according to the ITUC's observations, that the absence of precise statistics on *vidomégon* children in Benin constitutes an obstacle to decision-taking and to establishing policies and action plans aimed at eradication of the practice.

The Government indicates that measures are currently undertaken regarding the elaboration of a multidisciplinary, time-bound plan. With regard to statistics, the Government indicates the need for overall improvement of the system for gathering statistics in order to harmonize them, as the tools in place produce overall data, rather than child-labour specific data. In this connection, the Government indicates that a study into the worst forms of child labour and *vidomégons* is envisaged, with a view to the formulation of the multidisciplinary time-bound plan. ***The Committee urges the Government to take the necessary measures to ensure that the study on the worst forms of child labour and vidomégons is conducted and completed as soon as possible. It requests the Government to provide, in its next report, information on progress made in this respect, as well as on the development and adoption of a multidisciplinary and time-bound action plan aimed at protecting children under 18 years of age from engaging in the worst forms of child labour.***

The Committee is raising other matters in a request addressed directly to the Government.

Botswana

Minimum Age Convention, 1973 (No. 138) (ratification: 1997)

Previous comment

Article 1 of the Convention. National policy and the application of the Convention in practice. In reply to its previous comments, the Committee notes the Government's information in its report that the Ministry of Employment, Labour Productivity and Skills Development has partnered with the Government of the United States in implementing a project for the elimination of child labour, proposed in 2021 (National action plan for the elimination of child labour, 2021). This project aims to carry out programmes to (i) strengthen children's rights in Botswana by raising awareness of child labour, particularly in agriculture, (ii) empower civil society and local leaders to contribute to solutions, and (iii) ensure that the child protection laws are enforced by the Government. The proposed programmes within this project include research and study on the trends and nature of child labour; engage with stakeholders in agricultural regions to ensure their awareness of child labour regulations; raise public awareness; and child victim assistance. The Committee notes that the United Nations Committee on the Rights of the Child, in its concluding observations of June 2019 expressed concern about the ineffective implementation and evaluation of the National Plan of Action for Children 2006-2016 due to lack of sufficient resources (CRC/C/BWA/CO/2-3, paragraph 8). **The Committee therefore strongly encourages the Government to take the necessary measures to ensure the effective implementation of the National Action Plan for the elimination of child labour, 2021. It requests the Government to provide information on the measures taken within the framework of this project and the results achieved. It finally requests the Government to provide information on the findings of any research or study conducted on the trends and nature of child labour within this project.**

Article 2(1). Scope of application and labour inspection. Following its previous comments with regard to the application of the provisions of the Employment Act of 1982 to all forms of employment, including in the informal economy, the Committee notes the Government's indication that the Labour Law review which is at an advanced stage has taken into account the issues of informal economy. It is envisaged that the Bill will be presented to the Parliament during July 2022 session. The Committee also notes the Government's information that the Ministry of Employment, Labour Productivity and Skills Development continues to monitor child labour issues through its labour inspectorate, including in the agricultural sector where child labour is perceived to exist. In this regard, the Committee notes from the project document of the National Action Plan for the elimination of child labour, 2021 that child labour exists in Botswana, particularly in the commercial agricultural and cattle sector. The Committee further notes that the United Nations Human Rights Committee on the International Covenant on Civil and Political Rights, in its concluding observations of November 2021 expressed concern about reports of forced child labour in cattle herding, particularly affecting children of the San community (CCPR/C/BWA/CO/2, paragraph 25). **The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the Labour Law Bill, which provides protection to all children carrying out economic activities even without an employment contract, particularly children working on a self-employed basis or in the informal economy, including in agriculture, will be adopted in the near future. It requests the Government to provide information on any progress made in this regard as well as to provide a copy once it has been adopted. The Committee further requests the Government to take the necessary measures to strengthen the capacity and extend the reach of the labour inspection services to better monitor the work performed by young persons in the informal economy, particularly in the agricultural sector and cattle herding, and to provide specific information on actions taken in this regard.**

Article 2(3). Age of completion of compulsory schooling. With regard to the revision of the Education and Training Act of 1967 ensuring the introduction of free and compulsory basic education up to the

minimum age for admission to employment of 15 years, the Government indicates that the new Bill is envisaged to be presented to the Parliament during its July 2022 session. ***The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the Education and Training Bill which provides for compulsory schooling up to the minimum age for admission to employment or work of 15 years, will be adopted and implemented soon. It requests the Government to provide information on the progress achieved in this respect as well as to provide a copy, once it has been adopted.***

Article 3(1) and (2). Hazardous work. With regard to the adoption of the list of hazardous types of work prohibited to children under 18 years of age, the Committee refers to its comments under the Worst Forms of Child Labour Convention, 1999 (No. 182).

Article 7(3). Determination of light work. Noting the Government's information that the Labour Law Bill which is awaiting approval from the Parliament has taken into account the determination of light work activities permitted to children from 14 years of age, the Committee requests the Government to provide information on any progress made with regard to its adoption. It requests the Government to provide a copy of the list of the types of light work permitted for children, once it is adopted.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Previous comment

Articles 3(a) and 6 of the Convention. All forms of slavery or practices similar to slavery and programmes of action. Sale and trafficking of children. In response to its previous comments concerning the application of the Anti-human Trafficking Act of 2014, the Committee notes the Government's indication in its report that there are currently six cases of sale and trafficking of children under 18 years before the courts awaiting the final judgments. The Committee also notes the Government's information in its report under the Forced Labour Convention, 1930 (No. 29) that in July 2021, a woman was sentenced to imprisonment for ten years for trafficking a child of 16 years for sexual exploitation. This report also indicates that the Anti-Human Trafficking National Action Plan (NAP-HT) 2018-2022 was developed and structured in accordance with the internationally recognized 4P's strategies of prevention, protection, prosecution and partnership. The Human Trafficking (Prohibition) Committee, which is the coordination body responsible for the effective implementation of the NAP-HT has issued 18 resolutions pertaining to expediting pending cases, information campaigns and victim protection and referral procedures, of which 50 per cent have been successfully implemented.

The Committee, however, notes that the United Nations Human Rights Committee on the International Covenant on Civil and Political Rights, in its concluding observations of November 2021 expressed concern about the prevalence of trafficking in women and children for economic and commercial sexual exploitation and at the very low rate of investigations, prosecutions and convictions of the crime (CCPR/C/BWA/CO/2, paragraph 25). ***The Committee requests the Government to intensify its efforts, within the framework of the NAP-HT 2018-22 or otherwise, to ensure the thorough investigation and prosecution of perpetrators of child trafficking for labour or sexual exploitation, and to provide information on the convictions and penalties applied, including in the six cases of sale and trafficking of children under 18 years pending before the courts. In addition, the Committee requests the Government to provide information on the specific measures taken within the framework of the NAP-HT to combat trafficking in children as well as the results achieved.***

Article 4(1). Determination of hazardous work. Following its previous comments, the Committee notes the Government's information that the draft list of types of hazardous work prohibited to children under 18 years of age was incorporated in the ongoing labour law review. The Government indicates, in its report under the Minimum Age Convention, 1973 (No. 138) that the labour law review is at an advanced stage and it is envisaged that the Bill will be presented during the July 2022 session of the

Parliament. **The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the Labour Law Bill containing the draft list of types of hazardous work prohibited to children under 18 years of age is adopted in the very near future. It requests the Government to supply a copy of this list, once it is adopted.**

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from the worst forms of child labour and ensuring their rehabilitation and social integration. Child victims of commercial sexual exploitation. In reply to its previous comments, the Committee notes the Government's statement that all efforts are made to protect children from being involved in commercial sexual exploitation by extending support to their families. The Government also indicates that no information is available on child victims of commercial sexual exploitation as no study was conducted on this subject. The Committee notes that the United Nations Committee on the Elimination of Discrimination against Women, in its concluding observations of March 2019, expressed concern about the lack of efficient mechanisms to prevent girls who drop out of school from engaging in prostitution (CEDAW/C/BWA/CO/4, paragraph 29). **The Committee urges the Government to take the necessary measures to prevent the engagement of children in prostitution, and to remove them from this worst form of child labour as well as to rehabilitate and socially integrate them. It requests the Government to provide information on the measures taken in this regard, as well as on the number of children under 18 years of age who have been removed from prostitution and provided with appropriate care and assistance.**

The Committee is raising other matters in a request addressed directly to the Government.

Brazil

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

Previous comment

The Committee notes the joint observations of the Single Confederation of Workers (CUT), the National Forum for the Prevention and Eradication of Child Labour (FNPETI) and the National Union of Labour Inspectors (SINAIT) received on 23 October 2020, and the Government's replies to these observations. It also notes the observations of the National Association of Labour Justice Magistrates (ANAMATRA) received on 6 December 2021.

Article 1 of the Convention. National policy towards the elimination of child labour and application of the Convention in practice. With regard to its previous comments the Committee notes that the Government indicates in its report that the Third National Plan for the Prevention and Elimination of Child Labour and the Protection of Working Adolescents was finalized and is currently in force. The Plan includes among its objectives: (i) prioritizing prevention and elimination of child labour in political and social agendas; (ii) ensuring quality and free education for all children; (iii) protecting the health of children and adolescents against exposure to work-related risks; and (iv) fostering knowledge about the reality of child labour in Brazil. The Committee also notes that according to the National Continuous Household Survey (PNAD *Contínua*) (2016–2019) conducted by the Brazilian Institute of Geography and Statistics (IBGE), a total of 1,768,000 children and adolescents were engaged in child labour in 2019. The survey also shows that the number of children and adolescents (5 to 17 years of age) engaged in child labour fell from 5.3 per cent (2,100,000) in 2016 to 4.6 per cent (approximately 1,800,000) in 2019. The Committee further notes that the ANAMATRA highlights that, according to the data of the IBGE, of the total number of children engaged in child labour in 2019, 66.1 per cent were Afro-Brazilian children.

The Committee notes that in response to the observations of the CUT, FNPETI and SINAIT related to the abolition of the National Council for the Elimination of Child Labour (CONAETI), the Government indicates that the CONAETI was re-established by the Decree No. 10.574 of 14 December 2020, as one

of the thematic committees of the National Labour Council tasked with monitoring, evaluating and proposing policies on child labour. The composition of the CONAETI is tripartite, with the participation of six representatives of the Federal Government, six representatives of employers and six representatives of workers. The Committee also notes that the CUT, FNPETI and SINAIT observe that no measures have been taken to ensure the continuity of the Programme of Action for the Elimination of Child Labour (PETI). In this regard, the Government indicates that the PETI was redesigned with the aim of enhancing existing social welfare services and to align actions with other public policies to create a multisectoral child labour eradication agenda; and that its redesign did not affect the provision of cash transfers or social work carried out with families, but strengthened management and collaboration in five key areas: information and mobilization, identification, protection, advocacy and empowerment and monitoring. The Government adds that even though the COVID-19 pandemic has made it extremely difficult to keep social welfare services and programmes operational and the social protection network active, 8,843 activities have been carried out throughout Brazil at the state and municipal level under all five PETI areas of focus. ***The Committee encourages the Government to continue taking measures towards the elimination of child labour, including within the framework of the PETI, and requests it to continue providing information on the results achieved. In this respect, the Committee also requests the Government to provide information on the measures taken or envisaged to reduce child labour among Afro-Brazilian children. Finally, it requests the Government to provide information on the activities of the CONAETI, particularly in relation to the monitoring and evaluation of child labour policies.***

Article 2(1). Scope of application. Children working in family enterprises. Following its previous comments, the Committee takes due note of the Government's indication that section 402 of the Consolidated Labour Act, which excludes from its scope work undertaken by children and young persons in family enterprises, is not an exception authorizing child labour and that it in no way undermines the application of article 7 (XXXIII) of the Federal Constitution, which sets the minimum age at 16 years and prohibits hazardous work for young persons under 18 years. Furthermore, the Government refers to section 67 of the Statute of Children and Adolescent, according to which family workers shall not engage in night work, hazardous work, and work carried out during hours that prevent them from attending school. The Committee notes that, according to the statistical information provided by the Government, 30.9 per cent of children between 5 and 17 years engaged in child labour, work as helpers in family enterprises. ***The Committee requests the Government to take the necessary measures to ensure that, in practice, children working in family enterprises do not engage in child labour, including in hazardous work, and to provide information in this regard.***

Articles 2(1) and 7(1) and (3). Minimum age for admission to employment or work, minimum age for admission to light work and regulation of light work activities. The Committee notes that the ANAMATRA refers to a legislative proposal to amend item XXXIII of Article 7 of the Federal Constitution (PC 18/2011), which aims at reducing the minimum age for admission to employment or work, by authorizing children above 14 years to undertake part-time work for up to 25 hours per week. The Committee notes that the rapporteur of the Parliament Commission of Constitution, Justice and Citizenship, in his report dated 18 August 2021, declared the admissibility of PC 18/2021 highlighting that the Convention permits children who have reached the age of 13 years to undertake light work that is not likely to affect their safety, health and education.

In these circumstances, the Committee emphasizes that the overall objective of the Convention is to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons. Moreover, pursuant to *Articles 1 and 2, paragraph 1* of the Convention, read together, once a minimum age for admission to employment has been specified upon ratification (16 years in the case of Brazil), the Convention provides for the possibility to raise it progressively, but does not allow the lowering of the minimum age once specified. While *Article 7(1)* of the Convention provides for an

exception to the general minimum age by allowing children who have reached 13 years of age to carry out light work, such work cannot prejudice their attendance at school, their participation in vocational orientation or training programmes and their capacity to benefit from the instruction received. Pursuant to *Article 7(3)* of the Convention, the competent authority shall determine the light work activities and prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.

The Committee observes that the proposed constitutional amendment does not refer to specific light work activities permitted for children from the age of 14 years. Rather, it is broadly drafted so as to permit children to undertake any kind of work or occupation in any sector or in any occupation for up to 25 hours a week. Moreover, in giving effect to *Article 7(3)* of the Convention, special attention should be given to several key indicators, including the strict limitation of the hours spent at work in a day and in a week, the prohibition of overtime, the granting of a minimum consecutive period of 12 hours' night rest, and the maintenance of satisfactory standards of safety and health and appropriate instruction and supervision (2012 General Survey on the fundamental Conventions, paragraph 396). The Committee is of the view that authorizing children from the age of 14 to carry out part-time work under such conditions may have a negative impact on children's school attendance and performance as the time needed for homework related to their education, as well as for rest and leisure could be considerably reduced and therefore may not be considered an authorized exception to the minimum age under the Convention. **Therefore, the Committee expresses the firm hope that any legislative proposal to modify the minimum age for admission to employment or to regulate light work activities be considered in light of the above-mentioned provisions of the Convention.**

Labour inspection. The Committee notes that the Government enumerates different measures taken by the labour inspectorate to combat child labour in both the formal and informal economy, which include: (i) training for labour inspectors on addressing the various types of child labour; (ii) development of appropriate intervention instruments, including in the informal economy; (iii) inspection operations in child labour hotspots, including in rural areas; and (iv) actions planned in coordination with social partners with a view to the sustainable elimination of child labour hotspots. The Government adds that, as a result of the measures taken, the labour inspectorate found 535 children and adolescents engaged in child labour in the first semester of 2021. A total of 185 children and adolescents were found in child labour in the informal economy during inspections conducted in Maranhão, Espírito Santo, Roraima, Paraíba and Bahia during the same period. The Committee observes, however, that these numbers are still low compared to the overall number of children engaged in child labour in the country (according to the National Continuous Household Survey there were 1,768,000 children). **Therefore, while noting the measures taken by the Government, the Committee strongly requests the Government to take the necessary additional measures to strengthen the capacities of the labour inspectorate to effectively detect situations of child labour, particularly in the informal economy, and to provide information about the impact of these additional measures. The Committee also requests the Government to continue providing information on the number of inspections related to child labour that have been carried out, the number and nature of violations detected, the sectors in which they were found, and the penalties applied.**

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Previous comments: [observation](#) and [direct request](#)

The Committee notes the observations of the National Association of Labour Court Judges (ANAMATRA) received on 6 December 2021 and requests the Government to provide its reply to them.

Articles 3(d), 5 and 7(1) of the Convention. Hazardous work, labour inspection and penalties. In relation to its previous direct request, the Committee notes that the Government indicates in its report that,

between January 2017 and July 2021, the labour inspectorate imposed 1,276 penalties on workplace supervisors for violating Decree No. 6481 of 12 June 2008 containing a list of hazardous work prohibited for children. During the same period, the labour inspectorate also issued 68 violation notices for subjecting children and adolescents to other working conditions (not included in the list) that were considered harmful to their physical, psychological, morals, and social development and 71 penalties for allowing workers under 18 years of age to perform night work. The Committee notes that information concerning the number of children found to be in hazardous work is continuously updated and made available through the Radar SIT (Labour inspection statistics and information dashboard) webpage on child labour.

While noting the results of the inspections undertaken to identify situations of children engaged in hazardous work, the Committee notes with **concern** that, according to the National Household Sample Survey (PNAD *contínua*) conducted by the Brazilian Institute of Geography and Statistics for the period 2016-2019, a total of 706,000 children between 5 and 17 years of age are still in hazardous occupations (most of them within the age group of 5 to 13 years of age). Moreover, it notes that the ANAMATRA indicates that the number of children undertaking hazardous work who have been victims of accidents at the workplace increased by 30 per cent from 2019 to 2020. ***The Committee requests the Government to take, as a matter of urgency, all the necessary measures to ensure that children under the age of 18 years are not engaged in hazardous work, including in the informal economy, and that they benefit from the protection afforded by the Convention. It requests the Government to continue providing information in this regard, including on the number and nature of violations of the Decree No.6481 of 12 June 2008 that have been detected by the labour inspectorate and the penalties imposed.***

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. With regard to its previous comments, the Committee notes that the Government refers to two programmes that address the issue of education in rural areas, namely: (i) The Way to School Programme, which supports access to education by students living in rural and riparian areas by providing buses, motorboats and bicycles designed specifically for safe transportation in such regions; and (ii) The Land School Programme, which aims at providing training opportunities for teachers in rural areas on a continuous basis and facilitating school enrolment and retention of rural and Afro-Brazilian students. In 2019, some 1,800 teachers in rural and Afro-Brazilian communities benefited from that programme.

The Committee notes that, according to the 2019 National Household Sample Survey – Education (PNAD Education), 99.7 per cent of children aged 6 to 14 were enrolled in school in 2019. School failure or dropout affected 12.5 per cent of children aged 11 to 14 and 28.6 per cent of the children aged 15 to 17. It further notes that, according to the 2021 UNICEF report entitled “Out-of-School Children in Brazil”, the highest out-of-school rates (children aged 6 to 14) are found in rural areas, particularly in the North and Northeast regions of the country. The UNICEF report also highlights that, in absolute numbers, Afro-Brazilian and indigenous children and adolescents aged 4 to 17 who are out of school total 781,577, corresponding to 71.3 per cent of all children and adolescents who are currently not attending school. The Committee further notes the ANAMATRA’s observations that many children who were excluded from distance learning during the pandemic, were taken to work in the countryside, to perform domestic work or to work on the streets. ***While noting that the COVID-19 pandemic has had an impact on children’s access to school and recalling that education is key in preventing the engagement of children in the worst forms of child labour, the Committee requests the Government to continue to take measures to ensure that all children complete free basic education, particularly those living in rural and riparian areas. In this regard, it requests the Government to provide information on specific measures taken to facilitate access to school for Afro-Brazilian and indigenous children and the results achieved, as well as updated statistical data on school enrolment, retention and drop-out rates disaggregated by age and gender.***

Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and assistance for their removal, rehabilitation, and social integration. Trafficking and commercial sexual exploitation of children. In reply to previous comments, the Committee notes the Government's indication that the labour inspectorate is implementing measures to combat the commercial sexual exploitation of children and adolescents, which include training on commercial sexual exploitation of children and adolescents for labour inspectorates and the designing of specific protocols on the subject. It also notes that the Government has put in place the Initial Support Project to improve the protection and assistance networks for child and adolescent victims of commercial sexual exploitation. The project involves the participation of different institutions including the Ministry of Labour and Social Security and the National Coordination Office for Combating Child and Adolescent Labour. In addition, the Federal Traffic Police designed a Mapping Project to identify places along Brazil's federal roads that lend themselves to the commercial sexual exploitation of children and adolescents. The information is consolidated in a document that serves as guidance in combating commercial sexual exploitation.

The Committee further notes that according to the National Report of the Ministry of Justice and Public Safety on Trafficking in Persons (2017-2020), within the period 2018-2020, 32 child and adolescent victims of trafficking in persons were registered by the Federal Police. Moreover, according to the Ministry of Health, 229 persons under 18 years of age were considered as possible victims of trafficking in persons within the same period. While noting the adoption of measures to combat the commercial sexual exploitation of children and adolescents, the Committee observes that the Government does not provide information on the measures taken to provide child victims of trafficking and commercial sexual exploitation with rehabilitation services, including the establishment of shelters. **Therefore, the Committee once again requests the Government to take all the necessary measures to ensure that child victims of trafficking and commercial sexual exploitation are removed from these worsts form of child labour, rehabilitated and socially reintegrated, and to provide information on the results achieved. It also requests the Government to continue providing updated statistical information on the number of child victims of trafficking in persons that have been identified, rehabilitated, and reintegrated.**

Clause (d). Children at special risk. Child domestic workers. The Committee notes that according to the National Household Sample Survey (PNAD *continua*) for the period 2016-19, the number of children engaged in domestic work within the age group 5 to 17 was 125,528. It also notes the Government's indication that the labour inspectorate has taken various measures to address child domestic labour, including awareness raising campaigns and the development of training materials for labour inspectors and specific protocols on the issue. Between January 2013 and July 2021, the labour inspectorate removed seven children and adolescents from domestic work and imposed seven penalties on individuals responsible for hiring persons under 18 years of age as domestic workers. While noting the measures taken by the Government, the Committee observes that the number of child domestic workers remains significant, and that very few were identified and removed from this type of work over a period of eight years. **Therefore, the Committee urges the Government to strengthen its efforts to ensure that no person under 18 years of age is involved in domestic work, in conformity with Decree No. 6481 of 12 June 2008, and to provide information on the results achieved**

The Committee is raising other matters in a request addressed directly to the Government.

Cabo Verde

Minimum Age Convention, 1973 (No. 138) (ratification: 2011)

Previous comments: [observation](#) and [direct request](#)

Article 3(1) and 3(2) of the Convention. Minimum age for admission to, and determination of, hazardous work. The Committee previously noted with regret that the list of hazardous types of work prohibited

for children in different industries and which was adopted by Act No. 113/VIII/2016 on 10 March 2016 only applies to children under 16 years of age. The Committee takes note of the Government's indication, in its report, that the list of hazardous types of work does not fully comply with the requirements of the Convention. The Committee notes that, in the framework of the EU-funded Trade for Decent Work (T4DW) project, the review of the list of hazardous types of work is intended.

The Committee once again reminds the Government that, by virtue of *Article 3(1)* of the Convention, the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years. It once again emphasizes that the authorization to undertake hazardous work from the age of 16 years is a limited exception to the general rule on the prohibition of young persons under 18 years performing hazardous work, and that it does not constitute an unqualified authorization to engage in hazardous work as from the age of 16 years (2012 General Survey on the fundamental Conventions, paragraph 379). ***The Committee therefore urges the Government to take the necessary measures, in the framework of the T4DW project, to ensure that the review of the list of hazardous types of work raise the general minimum age for admission to hazardous work to 18 years, and to ensure that no child under the age of 18 shall be authorized to engage in hazardous work, other than in the exceptional cases allowed by Article 3(3) of the Convention. It requests the Government to provide detailed information on the progress made in this regard.***

Article 3(3). Admission to types of hazardous work from the age of 16 years. The Committee, once again observing that Act No. 113/VIII/2016 does not require any conditions to be met prior to authorizing the employment of young persons from 16 to 18 years of age in hazardous work, recalls that, under the terms of *Article 3(3)* of the Convention, national laws or regulations or the competent authority may, after consultation with the organizations of employers and workers concerned, authorize the employment of young persons between 16 and 18 years of age in hazardous work provided that their health, safety and morals are fully protected and that they have received adequate specific instruction or vocational training in the relevant branch of activity. ***The Committee therefore urges the Government to take the necessary measures, in the framework of the review of the hazardous work list intended by the T4DW project, to ensure that the performance of hazardous tasks by young persons aged from 16 to 18 years is authorized only as prescribed by Article 3(3) of the Convention. It requests the Government to provide detailed information on the progress made in this regard.***

The Committee is raising other matters in a request directly addressed to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Previous comments: [observation](#) and [direct request](#)

Article 3(a) of the Convention. Worst forms of child labour. Slavery or practices similar to slavery. Sale and trafficking of children. The Committee previously requested the Government to provide information on the application in practice of section 271A of the Penal Code, which criminalizes the sale and trafficking of persons, including minors, for purposes of sexual or labour exploitation. The Committee notes with **concern** that the Government does not provide this information. In this regard, the Committee notes the concern expressed by the United Nations Human Rights Committee, in its concluding observations of 3 December 2019, regarding the absence of sufficient information about investigations, prosecutions and convictions of those engaged in trafficking activities (CCPR/C/CPV/CO/1/Add.1, paragraph 25). This concern is echoed by the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), in its concluding observations of 2 June 2022, with regard to the low number of investigations, prosecutions and convictions of perpetrators of trafficking offences, given that no case of trafficking in persons of children has yet been detected, and the difficulties faced in providing disaggregated data according to

the information provided by the State party (CMW/C/CPV/CO/1-3, paragraph 69.). **The Committee therefore requests the Government to strengthen its efforts to ensure the effective enforcement of section 271A of the Penal Code and to gather and provide information on its application in practice, including the number of investigations, prosecutions and convictions, as well as sanctions imposed with regard to the sale and trafficking of children under 18 years.**

Article 3(b). Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances. The Committee notes that the Government provides detailed information in its report on several measures taken to strengthen the legislative framework on sex crimes committed against children in order to respond to the rise in such acts that has been observed in recent years, a situation that, according to the Government, illustrates the shortcomings of the existing punitive penal system. Such measures include the amendment of the Cabo Verdean Penal Code through Act No. 117/IX/2021 of 2021 to include separate provisions on sex crimes, including a new section 150-A on child pornography which covers not only digital pornography offences, but pornography in all its forms. The Government indicates that the amendments were introduced to create a robust and effective code on child sex crimes that aligns with international provisions on child protection.

Moreover, the Committee takes note of the information provided by the Government on the interventions carried out in the scope of the National Plan of Action to Combat Sexual Violence 2017–19, including the promotion of measures to improve the legal framework on sexual exploitation and abuse in order to strengthen institutional capacities of the safety and justice systems. These include the training of judges and the creation of dedicated courts for families, children and labour within certain districts. In addition, the Committee notes that, in the framework of the implementation of the EU-funded Trade for Decent Work (T4DW) project, a tripartite workshop on sexual exploitation in the tourism sector was held in September on the island of Sal, at the end of which the participants recommended police training on child sexual exploitation and a pilot project to identify, support and monitor child victims of sexual exploitation.

The Committee notes, however, that the Government offers no information in response to its previous request to provide information on the application in practice of the sections of the Penal Code which prohibit the use, procuring or offering of a child for prostitution or pornography. Moreover, it notes the concern expressed by the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) at the low rate of investigations, prosecutions and convictions for cases of exploitation of prostitution, as well as the limited support and redress provided to victims. The CEDAW also expresses concern at the cases of parents encouraging their daughters to be exploited in prostitution to obtain immigration visas or to support the family financially, and cases of girls as young as 12 years of age who have been sexually exploited in exchange for drugs (CEDAW/C/CPV/CO/9, paragraph 23). **The Committee therefore urges the Government to take the necessary measures – in the framework of the T4DW project or otherwise – to ensure the application in practice of sections 145A, 148, 149 and 150 of the Penal Code and to provide information in this regard, including the number of investigations, prosecutions and convictions, as well as sanctions imposed with regard to the use, procuring or offering of a child under 18 years of age for prostitution, for the production of pornography or for pornographic performances.**

Articles 3(d) and 4(1). Hazardous work. **With regard to the list of hazardous types of work prohibited to children under 18 years of age, the Committee refers to its detailed comments under the Minimum Age Convention, 1973 (No. 138).**

The Committee is raising other matters in a request addressed directly to the Government.

Cambodia

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Previous comment

Article 1 of the Convention. National policy and application of the Convention in practice. Following its previous comments, the Committee takes note of the information communicated by the Government in its report regarding the results achieved through its various measures, including the National Plan of Action on the Reduction of Child Labour and Elimination of the Worst Forms of Child Labour 2016–25 (NPA-WFCL) and the Decent Work Country Programme (DWCP) 2016–18. It notes that, according to the latest statistics from the Socio-Economic Survey 2019–20 of the National Institute for Statistics, the number of working children decreased from 23.6 per cent in 2012 to 18.2 per cent in 2019–20.

The Committee notes that the Government continues to take measures aimed at improving the socio-economic conditions and reducing the incidence of child labour in the country, including the continued implementation of the NPA-WFCL. It also notes that the 2019–23 DWCP is designed to help the country achieve sustained job-rich growth and inclusive and sustainable development while advancing decent work for all Cambodian women and men. Moreover, according to information available to the ILO on policy responses in Cambodia, among other measures adopted in response to the COVID-19 crisis, the Government is expanding existing social protection programmes to the poor and vulnerable, especially through cash transfer programmes. ***The Committee encourages the Government to continue its efforts to ensure the progressive elimination of child labour through the implementation of the NPA-WFCL, the 2019–23 Decent Work Country Programme and other policies and social protection programme, and requests it to continue to provide information on the results achieved. In this regard, the Committee also requests that the Government continue to provide any updated statistical information on the employment of children and young persons.***

Article 2(1). Scope of application and labour inspection. 1. *Children working in the informal economy.* Following its previous comments, the Committee notes the Government's information that the Ministry of Labour and Vocational Training (MLVT) has conducted technical meetings and training courses with labour inspectors with a view to increasing their effectiveness in monitoring child labour. From 2019 to 2020, 14 training courses were conducted with 1,604 labour inspectors and other relevant stakeholders to prevent the exploitation of child labour. In addition, the Government indicates that under the draft law on the amendment of the Labour Act, labour inspectors will receive a qualification as juridical police, which will allow them to have better access when conducting inspections and contribute to the prevention of child labour and its worst forms. ***The Committee requests the Government to continue its efforts to strengthen the labour inspection services to enable them to effectively monitor and detect cases of child labour, including children working on their own account or in the informal economy. It requests the Government to provide information in this regard and on the number and nature of violations found related to child labour, including in hazardous conditions, and the penalties imposed. It also requests information on the specific aspects of better access for labour inspectors that are enabled, based on their qualification, as juridical police.***

2. *Child domestic workers.* In response to the Committee's previous concern that the minimum age for employment or work did not apply to domestic workers and household servants, the Committee notes with ***satisfaction*** the issuance of Prakas No. 235 by the MLVT on 29 May 2018, according to section 4 of which domestic workers must be at least 18 years of age, or at least 15 years of age for light domestic work which is not hazardous to health.

Article 2(3). Compulsory schooling. Regarding the Committee's previous comments relating to the fact that, under the provisions of the Education Law of 2007, basic education in Cambodia is free but not compulsory, the Government indicates that the Ministry of Education, Youth and Sport will

undertake a feasibility analysis with a view to implementing nine years of basic education (until 15 years of age) and prepare an action plan to introduce compulsory education on a phase by phase basis and clearly outline the roles and responsibilities of the various levels of government and financial arrangements in this regard. The Government indicates that, to start, it will undertake preparatory work to implement free and compulsory education at pre-primary level, which will become an integral part of basic education. The Committee once again stresses the importance of adopting legislation providing for compulsory education up to the minimum age for admission to employment or work, because where there are no legal requirements establishing compulsory schooling, there is a greater likelihood that children under the minimum age will be engaged in child labour (2012 General Survey on the fundamental Conventions, paragraph 369). **The Committee therefore encourages the Government to take the necessary measures to implement compulsory education, up to the minimum age for admission to employment, and to provide information on the progress made in this regard.**

The Committee is raising another matter in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2006)

Previous comment

Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and penalties. Sale and trafficking of children. In relation to the Committee's previous comments regarding measures taken to strengthen the enforcement of Cambodia's anti-trafficking legislation, the Committee notes the Government's information in its report that the Department of Anti-human trafficking and juvenile protection is providing resources, equipment and funds to the Anti-human trafficking and juvenile protection authority for the organization of trainings and implementation of the relevant laws and regulations. The Committee takes note of the Government's detailed statistical data compiled by the Department of Anti-human trafficking and juvenile protection, Department of Cybercrime, National Gendarmerie and Commissariat of Municipal/Provincial Police. In particular, the Committee notes that in 2018, these bodies cracked down on 134 cases, arrested 224 suspects, and rescued 230 victims, including 92 minors under the age of 15 and 23 aged between 15 and 17. In 2019, there were 169 cracked down cases, 229 arrested suspects, and 456 rescued victims (141 under the age of 15, and 55 between 15 and 17 years). Finally, in 2020, there were 155 cracked down cases, 193 arrested suspects, and 467 rescued victims (130 under the age of 15, and 39 between 15 and 17 years). The Committee observes, however, that the Government does not provide information on the number of convictions and penalties applied. **The Committee strongly encourages the Government to continue taking measures aiming to ensure that the Law on Suppression of Human Trafficking and Sexual Exploitation is effectively applied. It also encourages the Government to take the necessary measures to strengthen the capacity of law enforcement agencies, including through the allocation of financial resources and adequate training, to combat the sale and trafficking of children under 18 years of age, and to provide information on the progress made in this regard. It further requests the Government to provide information on the number of investigations, prosecutions, convictions and penal sanctions applied, specifically in cases of child trafficking for labour or sexual exploitation.**

Articles 3(d), 5 and 7(2)(b). Hazardous work, monitoring mechanisms and effective and time bound measures. Debt bondage in brick kilns. The Committee notes the Government's indication that the Taskforce of the Ministry of Labour and Vocational Training on child labour prevention in the brick making industry (MLVT Taskforce) was established in 2019. The Government indicates, in its report under the Minimum Age Convention, 1973 (No. 138), that a census of 486 operational brick kilns was conducted in the country in 2019-2020 and that labour inspectors have not identified any cases of child labour or debt bondage at those brick kilns. The Committee notes, however, that in its concluding observations of 27 June 2022, the United Nations Committee on the Rights of the Child remained deeply concerned about the large number of children involved in child labour, including debt bondage, in the

construction and brickmaking industries (CRC/C/KHM/CO/4-6, paragraph 45). Similarly, the United Nations Human Rights Committee, in its concluding observations of 18 May 2022, expressed its concern about allegations of cases of debt bondage involving children, in particular in the brick industry (CCPR/C/KHM/CO/3, paragraph 30). ***The Committee therefore requests the Government to take measures, both in law and in practice, to identify and protect children under 18 years of age engaged in the brick kiln industry from debt bondage and hazardous work, including through the action of the MLVT Taskforce. In this regard, it urges the Government to take measures to ensure the prohibition of the employment of children under 18 years in debt bondage or hazardous work in the brick kiln industry, and to ensure that effective and dissuasive penalties are applied against offenders. It also requests the Government to provide information on the number of children removed from working in brick kilns through inspections and provided with direct assistance for their rehabilitation and social integration.***

Articles 6 and 7(2)(a) and (b). Programmes of action and time-bound measures for prevention, assistance and removal. Child trafficking. Following its previous comments, the Committee takes note of the detailed information provided by the Government in its report concerning the number of victims of trafficking that were rescued, rehabilitated and reintegrated between 2014 and 2020. The Government indicates, for example, that in 2019, the Ministry of Social Affairs, Veterans and Youth Rehabilitation and the provincial/municipal department of social affairs, in collaboration with relevant stakeholders, rescued 1,415 persons, among which 78 are children. The Committee observes, however, that the statistics provided by the Government regarding the number of rehabilitated victims appear to be sporadic and do not clearly make the distinction between child and adult victims. For example, the Government indicates that, in 2017, 8 victims were rehabilitated (4 girls through Caritas, and 1 boy and 3 girls through HAGAR International); in 2018, 16 victims were rehabilitated through the Department of Social Welfare and Development; and in 2019 and 2020 respectively, 396 and 106 victims were rehabilitated through a variety of governmental and non-governmental institutions. In addition, the Committee notes that the United Nations Human Rights Committee, in its concluding observations of 18 May 2022, expressed concern about reports of a lack of adequate protection for victims of trafficking, in particular women and children (CCPR/C/KHM/CO/3, paragraph 30). ***The Committee requests the Government to strengthen its efforts to ensure that child victims of trafficking who are removed from sexual or labour exploitation are rehabilitated and socially integrated. It encourages the Government to take measures to ensure that adequate statistics in this regard are compiled, disaggregated by gender and age, and requests it to provide this information in its next report.***

Article 8. International cooperation. Trafficking. Following its previous comments, the Committee notes the Government's information regarding the number of child victims of trafficking and illegal migrants who were victims or at risk of trafficking, that were intercepted, rehabilitated or repatriated as a result of various efforts. ***The Committee requests the Government to continue to provide information on the measures taken to enhance international cooperation to combat trafficking in children, particularly as regards identification, protection and assistance of child victims of trafficking.***

The Committee is raising other matters in a request addressed directly to the Government.

Canada

Minimum Age Convention, 1973 (No. 138) (ratification: 2016)

Previous comment: [direct request](#)

Article 2(1) of the Convention. Scope of application. The Committee notes the information provided by the Government in its report regarding the manner in which the protection provided by the Convention is guaranteed to children and young persons working in family-owned businesses in Nova Scotia, Prince Edward Island and Saskatchewan.

Adding to the fact that the legislation of these three provinces provides that children must be enrolled in and attend school until the age of 16, the Committee notes the following:

- *Nova Scotia*: Family-owned businesses are subject to the Occupational Health and Safety Act, in accordance with which employers must take every reasonable precaution to ensure the health and safety of persons at work, provide information, instruction and training, and generally ensure the workers' health and safety (section 13(1)).
- *Prince Edward Island*: The Government intends to begin a review of the Employment Standards Act, which is expected to take into consideration compliance with ratified ILO Conventions. In the meantime, young persons working in family-owned businesses are protected through education and enforcement. The Occupational Health and Safety (OHS) Division has a dedicated Farm Safety Specialist that routinely visits farm employers to discuss workplace safety specific to farms. In the spring, an OHS Officer dedicates time to visiting fisher employers to discuss safety requirements. In addition, the Workers Compensation Board (WBC) employs a full-time Youth Education consultant, who is responsible for developing educational information targeted at young worker safety.
- *Saskatchewan*: A review of the employment standards provisions of the Saskatchewan Employment Act is expected to take place in 2022-23, which will provide an opportunity for consultation on this matter. In the meantime, Saskatchewan employment standards officers investigate all complaints received – even those in situations that are not covered by the Act – and an interactive programme for young workers to be aware of their rights and responsibilities in the workplace introduced in 2010-11 contributes to the compliance of employers.

The Committee requests the Government to provide information on the progress made by Prince Edward Island and Saskatchewan in reviewing their employment standards legislation, and whether these reviews will address the issue of including family-owned businesses and enterprises in the scope of application of those standards. The Committee further requests the Government to provide information on the number of children employed in such family-owned businesses and enterprises in Nova Scotia, Prince Edward Island and Saskatchewan who are effectively protected, in particular through the application of occupational health and safety legislation and inspections, and through the inspections conducted by Saskatchewan's employment standards officers.

Article 7(1) and (3). Age for admission to light work and determination of light work. 1. *British Columbia*. The Committee previously took note of *British Columbia's* Employment Standards Act and requested the Government to indicate the measures taken or envisaged to regulate the employment of children in light work from the age of 13 years, as required by *Article 7(1)* of the Convention.

The Committee notes with **interest** that the recently enacted Employment Standards Amendment Act, 2019, of *British Columbia* raises the general working age to 16, and allows youth aged 14 and 15 to perform appropriate jobs defined as "light work" (new section 9(1) of the Amendment Act). Examples of light work considered appropriate for 14–15 year-olds which are unlikely to be harmful to the child's health or development include: (i) recreation and sports club work; (ii) light farm and yard work, such as gardening, clearing leaves and snow; (iii) administrative and secretarial work; (iv) retail work; (v) food service work; and (vi) skilled and technical work. Restrictions on when youth may engage in these activities (i.e. not during school hours) continue to apply so it will not prejudice their attendance at school.

2. *Manitoba and Saskatchewan*. The Committee notes the Government's information that, in order to determine the types of light work activities that youth aged 13 years are permitted to participate in, *Manitoba* undertook a jurisdictional scan and engaged in stakeholder consultations with the Labour Management Review Committee (LMRC), which is made up of stakeholders representing the views of both employers and employees. Recent consultations with the LMRC resulted in the addition of a

prohibition on employment of workers under age 14 in food preparation work if the work involves the use of dangerous tools or machinery.

In the case of *Saskatchewan*, the Government indicates that while section 3-3 of the Occupational Health and Safety Regulations, 2020, currently provides a detailed list of prohibited work for anyone under the age of 16, there is no current definition of “light work” in the Employment Act or associated regulations. A review of the employment standards provisions of the Act is expected to commence in 2022–23, with a regulatory review to follow. The Government indicates that the concept of light work should be considered as a part of these consultations. ***The Committee requests the Government of Manitoba to provide information on the progress made in the process of determining light work activities that may be permitted to children from the age of 13 years, in consultation with the LMRC. It also requests the Government of Saskatchewan to provide information on the progress made in its review of the Employment Act and regulations, and requests it to take measures to ensure that this review include a determination of types of light work activities that may be permitted to children from the age of 14 years.***

3. *New Brunswick, Nova Scotia and Prince Edward Island.* The Committee notes the Government’s information that the Employment Standard Branch in *New Brunswick* processes youth work permit applications and indicated that the majority of applications deal with children 15 years or older. The Employment Branch also consults with WorkSafeNB on the work conditions of the workplace and imposes special conditions of work including supervision, limited hours of works, and tasks, in certain instances.

The Government further indicates that in the case of *Prince Edward Island*, the Government intends to begin a review of the Employment Standards Act and of the Youth Employment Act, which is expected to be extensive and take into consideration compliance with the ILO Conventions ratified by Canada, including Convention No. 138. This work is expected to take a few years to complete. The Committee notes that the Government provides no information with regard to *Nova Scotia*. ***The Committee requests the Government of Prince Edward Island to provide information on the progress made in its review of the Employment Standards Act and the Youth Employment Act, and to take measures to ensure that this review include the establishment of a minimum age of 13 years for employment in light work, as required by Article 7(1) of the Convention. It once again requests the Government of Nova Scotia to indicate the measures taken or envisaged to establish a minimum age of 13 years for employment in light work.***

4. *Northwest Territories, Nunavut and Yukon.* The Committee notes that the Government of the *Northwest Territories* is of the view that the Employment Standards Act (sections 46-47) and the Safety Act (section 4), combined with the requirement under the Education Act – that children under the age of 16 attend school – are sufficient to ensure that children are not employed in work that would be harmful to their health or development and that their attendance at school is not prejudiced. However, the Governments of *Nunavut* and *Yukon* provide no further information at this time. ***The Committee once again requests the Governments of Nunavut and Yukon to take the necessary measures to ensure that the minimum age for admission to light work is set at 13 years, and to determine the types of light work activities that may be permitted for persons of 13 years and above as well as the number of hours during which, and the conditions in which, such employment may be undertaken, as required under Article 7 of the Convention.***

5. *Ontario.* The Committee takes due note of the Government’s information that the minimum age for working in Ontario is 14 years for most types of work, with certain types of work requiring a higher minimum age, in accordance with the Occupational Health and Safety Act (OHSA). The Government indicates that health and safety protections set for different types of workplaces and different kinds of workplace hazards, as required under the OHSA and its regulations, would apply to all workers,

regardless of age. In addition, higher minimum ages are prescribed by the OHSA for certain types of work that may be more hazardous.

6. *Quebec*. The Committee previously noted that pursuant to section 84.3 of the Act respecting Labour Standards, a child under 14 years of age may be employed with a written consent of the child's parent or tutor. It noted that sections 84.4 to 84.7 provide conditions in terms of schooling and working hours that are imposed on the employment of children. The Government indicated that the term child under sections 84.4 to 84.7 refers to persons under 17 years.

The Committee notes that the Government does not provide new information on this subject in its report. ***The Committee once again requests the Government of Quebec to take the necessary measures to ensure that no child under the age of 13 years is permitted to be employed in light work. It also once again requests the Government to take the necessary measures to determine the types of light work activities that may be permitted for persons of 13 years and above.***

Article 9(1). Penalties and labour inspection. Following its previous comments, the Committee notes the detailed information provided by the Government on the federal, provincial and territorial labour inspectorates and their functioning, as well as on violations detected and penalties applied. For example, it notes the Government's indication that, at the federal level, there was only one complaint concerning underage employment between 1 January 2010 and 8 August 2021, which was determined to be unfounded upon inspection. In *British Columbia*, the Employment Standards Branch of the Ministry of Labour has issued two penalties in the past five years for violations of section 9 of the Employment Standards Act (hiring of a child without a permit). In *Manitoba*, 22 youth-related Director's Own Accord (DOA) investigations were carried out between 2017 and 2021, during which 13 violations were detected. In the *Northwest Territories*, 92 payroll inspections were completed by the Employment Standards Inspectors, but none of these inspections identified violations with regard to the employment of youth.

However, the Committee observes from the Government's report that, in many cases, inspections do not collect information specific to the age of the employee in question. In *British Columbia*, both the Employment Standards Branch and WorkSafeBC (who undertakes workplace inspections and issues orders for non-compliance under the Occupational Health and Safety Regulations) do not collect information specific to the age of the employees. In *New Brunswick*, where the system under the Employment Standards Branch is largely complaint-driven, inspections involving young employees are not specifically tracked. In addition, workSafeNB inspects workplaces for adherence to OHSA, but focused inspections at workplaces employing children and youth are not conducted. In *Newfoundland and Labrador*, there have been 22,113 inspections over the past five years, but the OHS division does not track the age of people involved in complaints. In *Prince Edward Island*, there have been no complaints/investigations/violations/penalties issued in relation to the employment of children under the Employment Standards Act or Youth Employment Act. Moreover, the Committee notes that certain provinces, including *Newfoundland and Labrador*, report that they do not even collect data relating cases of violations of legislation relating to the employment of children or to their occupational health and safety.

The Committee further observes, from the Government's report, that violations of minimum age provisions across Canada do not appear to be penalized. For example, in *New Brunswick*, notices of non-compliance are generally issued to employers without the need for further sanctions. In *Manitoba*, in all the cases of violations detected by the DOA through its youth-related investigations between 2017 and 2021, no administrative sanctions were issued. In *Nova Scotia*, employment of children concerns are typically resolved by educating employers about the provisions of the Code, rather than through prosecutions, as authorized by the Labour Standards Code.

The Committee recalls that *Article 9(1)* of the Convention requires that all necessary measures, including the provision of appropriate penalties, be taken by the competent authority to ensure the

effective enforcement of the provisions of the Convention. While the adoption of national legislation is essential as it establishes a framework within which society determines its responsibilities with regard to young persons, even the best legislation only takes value when it is applied effectively (2012 General Survey on the fundamental Conventions, paragraph 410). Moreover, the Committee emphasizes the importance of ensuring that the labour inspection system effectively monitors working children in all areas and sectors (2012 General Survey on the fundamental Conventions, paragraph 408). ***The Committee therefore requests the Government to take the necessary measures to adapt and strengthen the labour inspection services in order to enable them to effectively monitor children working across all sectors. It also requests the Government to take the necessary measures to ensure that the regulations providing for penalties – administrative or otherwise – in the case of a violation of the provisions on the employment of children and young persons are effectively implemented by the labour inspectorate or other competent authorities. In this regard, it requests the Government to provide information on the number and nature of violations detected and penalties imposed relating to the employment of children across Canada.***

The Committee is raising other points in a request addressed directly to the Government.

Central African Republic

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Previous comment

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022. It also notes the detailed discussion, which was held at the 110th Session of the Conference Committee on the Application of Standards (Conference Committee) in June 2022, concerning the application of the Convention, and the Government's report.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

Article 3(a) of the Convention. All forms of slavery or practices similar to slavery. Forced recruitment of children for use in armed conflict. The Committee notes that the Conference Committee, while aware of the complexity of the situation in the country, deplored the current situation where children are being recruited and used by the armed forces and armed groups as combatants and in support roles. The Conference Committee urged the Government to take all necessary measures, in consultation with the social partners, to ensure the full and immediate demobilization of all children and to put a stop, in law and practice, to the forced recruitment of children into the armed forces and armed groups. In this regard, it also urged the Government to take all necessary measures to ensure that thorough investigations and robust prosecutions of all persons, including members of the armed forces and armed groups, are carried out, and that sufficiently effective and dissuasive penalties are imposed in law and practice. The Committee also notes that, in its observations, the ITUC supports the conclusions of the Conference Committee and, in particular, recalls that the report of the UN Secretary-General on children and armed conflict identified, in May 2021, over 580 cases of children recruited and used by armed groups and armed forces, which constitutes an alarming deterioration of this situation.

The Committee notes that, according to the report of the UN Secretary-General on children and armed conflict of 23 June 2022, the United Nations confirmed that 329 children (262 boys, 67 girls), some as young as 7 years of age, had been recruited and used by armed groups (293), including as combatants (84 children). A total of 36 children were used by other security personnel (28), the Armed Forces of the Central African Republic (5), the Armed Forces of the Central African Republic/internal security forces (2) and the Armed Forces of the Central African Republic/other security personnel (1) for

intelligence gathering, at checkpoints and to run errands. Most violations (189) occurred in Haute-Kotto Prefecture. Eight boys were detained by national authorities for alleged association with armed groups. Two remain in detention and the United Nations continues to advocate their release. The Committee also notes the detailed information contained in the report on the hundreds of cases of murder, rape and other forms of sexual violence, and abduction, perpetrated against children, and attacks on schools and hospitals (A/7/871-S/2022/493, paragraphs 26–34).

The Committee notes the Government's indication in its report that efforts continue to be undertaken through the Strategic Committee responsible for disarmament, demobilization, reintegration and repatriation; reform of the security sector; and national reconciliation (DDRR/RSS/RN), chaired by the President of the Republic, and the National Strategy for the Reform of the Defence and Security Sector 2017–21, which allowed for the strengthening of the technical capacity of the defence forces. The Committee also notes that, according to the written information provided by the Government to the Conference Committee, and the information contained in the report of the Independent Expert on the situation of human rights in the Central African Republic of 22 August 2022, measures are being taken with regard to the prosecution of perpetrators of offences concerning human rights violations, including the worst forms of child labour. These efforts include not only the holding of regular criminal sessions since the end of 2015, but also the operationalization of the Special Criminal Court, which began its first trial in April 2022 in a case of prosecution for war crimes and crimes against humanity, of members of rebel groups (A/HRC/51/59, paragraphs 65 et seq.). However, according to this report, while the fight against impunity is a government priority, many incidents have not been investigated by the State. The Independent Expert states that political will in this area should be translated into effective action (A/HRC/51/59, paragraphs 83–84).

While noting the measures taken by Government, and recognizing the difficult situation prevailing in the country, the Committee finds itself obliged to once again **deplore** the continuing recruitment and use of children in the armed conflict in the Central African Republic, all the more so as it gives rise to other serious violations of the child rights, such as abductions, murder and sexual violence, and attacks targeting schools and hospitals. **The Committee therefore urges the Government to pursue its efforts to put an end to the practice of forced recruitment of children of less than 18 years of age by the armed forces and armed groups in the country. Moreover, the Committee again urges the Government to continue to take immediate and effective measures to ensure that all persons, including members of the regular armed forces, who recruit children of under 18 years of age for use in armed conflict, are thoroughly investigated and prosecuted and that sufficiently effective and dissuasive penalties are imposed in practice, particularly within the framework of national jurisdictions and the Special Criminal Court. The Committee once again requests the Government to provide information on the number of investigations undertaken, prosecutions filed, and convictions handed down against such persons. It also requests the Government to provide a copy of the Child Protection Code.**

Article 7(2). Effective and time-bound measures. Clause (a). Prevent the engagement of children in the worst forms of child labour. Access to free basic education. The Committee notes that the Conference Committee noted with deep concern the situation of children, especially girls, who are deprived of education due to the impact of the political and security crisis prevailing in the country. The Conference Committee urged the Government to intensify its efforts to improve the operation of the education system and facilitate access to free quality basic education for all children, particularly girls, and in zones affected by the conflict.

The Committee further notes that, in its observations, the ITUC also notes with deep concern the impact of the political and security crisis on the situation of children, in particular girls, who are deprived of education. The ITUC recalls that the school attendance rate remains extremely low, and that the drop-out rate between primary and secondary education is very high. This situation is due, in particular, to the partial or total closure of several schools as a result of the armed conflict, particularly in the hinterland, where armed groups pillage, attack and occupy schools in the context of the conflict. The

ITUC therefore considers that the Central African Republic still has to make considerable efforts to comply with its obligations under *Article 7(a) and (c)* of the Convention, which seeks to ensure access to free basic education for all children.

In this regard, the Government indicates in its reports that the right to education for all is one of its priorities, and that efforts have been made to restore school facilities, even in the areas most affected by the conflict, and to build the capacity of teaching staff. The Government indicates that it approved, in May 2020, the Sectoral Plan for Education for 2020–29, which provides an analysis of access to education, governance reform and financing of the education system.

While noting with **deep concern**, the significant number of children deprived of education due to the climate of insecurity prevailing in the country, the Committee wishes to recall that education plays a key role in preventing children from engaging in the worst forms of child labour, including their recruitment in armed conflicts. ***The Committee therefore urges the Government to intensify its efforts to improve the functioning of the education system in the country and to facilitate access to free basic education for all children, including girls and in areas affected by conflict. It requests the Government to provide information on the impact of the specific measures taken in this regard, under the Sectoral Plan for Education for 2020–29 or any other project, as well as on the school attendance, maintenance and drop-out rates at primary and secondary levels.***

Clause (b). Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Forced recruitment of children for use in armed conflict. The Conference Committee urged the Government to intensify its efforts on the prevention, removal, rehabilitation and social integration of children recruited to be used for armed conflict, including through awareness-raising and reintegration programmes.

In this regard, the ITUC notes with concern, in its observations, that children who have been forcibly recruited are victims a second time of the political and security crisis prevailing in the country, due to the insufficient means allocated for their rehabilitation and reintegration into society. The ITUC highlights that the reintegration programmes must be strengthened to ensure the effective and long-term demobilization of children, and that the rehabilitation of former child soldiers constitutes a major challenge in the country. The ITUC notes that, while political commitments have existed for a long time in the Central African Republic, the time frame for effectively implementing these commitments has been significantly exceeded, and that numerous issues continue to arise in practice with regard to the rehabilitation and social integration of former child soldiers.

In this regard, the Committee notes the Government's indication that several persons, including children from armed groups, have been demobilized and reintegrated into the economic and social system. The Government underscores that, since 2014 and with the support of UNICEF and other partners, over 15,500 children were freed, of whom 30 per cent were girls, and of whom several have attended training courses at the Office of the High Commissioner through the *Jeunesse Pionnière* (Young Pioneers) youth organization. The Committee also notes that, according to the information contained in the report of the Secretary-General on children and armed conflicts of 23 June 2022, interministerial plans have been developed to implement the Child Protection Code (A/7/871-S/2022/493, paragraph 35). According to UNICEF, the implementation of the Code makes it possible to ensure the effective protection of children, including against serious violations of their rights, and to strengthen the monitoring and reporting mechanism and foster the liberation and reintegration of children from the armed forces and armed groups, and to provide medical and psycho-social care for children affected by conflict.

The Government indicates that, in collaboration with UNICEF, it is seeking ways to ensure that the 2,000 children affected by violence, exploitation and abuse, who were freed from armed groups in 2021, are reintegrated into their families/communities, or placed in alternative services. In this regard, the Committee notes that, according to the report of the Independent Expert on the situation of human

rights in the Central African Republic of 22 August 2022, despite the funding of projects for the socio-economic reintegration of individuals, including children, who have left armed groups, this challenge remains outstanding (A/HRC/51/59, paragraph 10). ***The Committee therefore once again urges the Government to step up its efforts to ensure the removal of all children recruited for use in the armed conflict and for their rehabilitation and social integration. It also once again requests the Government to take all measures necessary to ensure that all children removed from armed groups and from the armed forces benefit from reintegration programmes, including in the context of its cooperation with UNICEF. It requests the Government to continue to provide information in this regard, including on the number of children who have benefited from rehabilitation and social integration.***

The Committee is raising other matters in a request addressed directly to the Government.

Chad

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 3(a) of the Convention. All forms of slavery or practices similar to slavery. Forced recruitment of children for use in armed conflict. In its previous comments, the Committee noted that, according to the report of the United Nations Secretary-General on children and armed conflict of 15 May 2013 (A/67/845-S/2013/245, paragraphs 45 and 46), despite progress in the implementation of the action plan signed between the Government and the United Nations in June 2011 concerning children associated with the armed forces and armed groups in Chad, and although the national army of Chad did not recruit children as a matter of policy, the country task force verified 34 cases of recruitment of children by the army during the reporting period. The 34 children appeared to have been enlisted in the context of a recruitment drive in February–March 2012, during which the army gained 8,000 new recruits. In this respect, the Committee noted the new roadmap of May 2013, adopted further to the review of the implementation of the action plan concerning children associated with the armed forces and armed groups in Chad and aimed at achieving full observance of the 2011 action plan by the Government of Chad and the United Nations task force. The Committee observed that, in the context of the roadmap, one of the priorities was to speed up the adoption of the preliminary draft of the Child Protection Code, which prohibits the recruitment and use of young persons under 18 years of age in the national security forces and lays down penalties to that effect. Moreover, during 2013 it was planned to establish transparent, effective and accessible complaint procedures regarding cases of recruitment and use of children, and also to adopt measures for the immediate and independent investigation of all credible allegations of recruitment or use of children, for the persecution of perpetrators and for the imposition of appropriate disciplinary sanctions.

The Committee takes note of the information contained in the United Nations Secretary-General's report of 15 May 2014 to the Security Council on children and armed conflict (A/68/878-S/2014/339). According to this report, the deployment of Chadian troops to the African-led International Support Mission in Mali (AFISMA) has prompted renewed momentum to accelerate the implementation of the action plan signed in June 2011 to end and prevent underage recruitment in the Chadian National Army, and the Chadian authorities have renewed their commitment to engage constructively with the United Nations to expedite the implementation of the action plan. The Government of Chad, in cooperation with the United Nations and other partners, has therefore taken significant steps to fulfil its obligations. For example, a presidential directive was adopted in October 2013 to confirm 18 years as the minimum age for recruitment into the armed and security forces. This directive also establishes age verification procedures and provides for penal and disciplinary sanctions to be taken against those violating the orders. The directive was disseminated among the

commanders of all defence and security zones, including in the context of several training and verification missions. Furthermore, on 4 February 2014, a presidential decree explicitly criminalized the recruitment and use of children in armed conflict.

The Secretary-General states, however, that while the efforts made by the Government to meet all obligations under the action plan have resulted in significant progress, a number of challenges remain to ensure sustainability and the effective prevention of violations against children. Chad should pursue comprehensive and thorough screening and training of its armed and security forces to continue to prevent the presence of children, including in the light of Chad's growing involvement in peacekeeping operations. While no new cases of recruitment of children were documented by the United Nations in 2013 and no children were found during the joint screening exercises carried out with the Chadian authorities, interviews confirmed that soldiers had been integrated in the past into the Chadian National Army from armed groups while still under the age of 18. According to the Secretary-General, the strengthening of operating procedures, such as those for age verification, which ensure the accountability of perpetrators, should remain a priority for the Chadian authorities. Finally, the Secretary-General invited the National Assembly to proceed as soon as possible with the examination and adoption of the Child Protection Code, which should provide greater protection for the children of Chad. ***The Committee therefore requests the Government to intensify its efforts to end, in practice, the forced recruitment of children under 18 years of age by the armed forces and armed groups and to undertake immediately the full demobilization of all children. The Committee urges the Government to take immediate measures to ensure that the perpetrators are investigated and prosecuted and that sufficiently effective and dissuasive penalties are imposed on persons found guilty of recruiting and using children under 18 years of age in armed conflict. Finally, the Committee urges the Government to take the necessary measures to ensure the adoption of the Child Protection Code as soon as possible.***

Article 7(2). Effective and time-bound measures. Clauses (b) and (c). Preventing children from being engaged in the worst forms of child labour, removing children from these forms of labour and ensuring their rehabilitation and social integration. Children who have been enlisted and used in armed conflict. In its previous comments, the Committee noted that, according to the report of the United Nations Secretary-General on children and armed conflict of 15 May 2013 (A/67/845-S/2013/245, paragraph 49), the actions taken by the Government for the release, temporary care and reunification of separated children, while encouraging, were not yet in line with the commitments made in the action plan signed between the Government and the United Nations in June 2011 concerning children associated with the armed forces and armed groups in Chad. The Committee noted that one of the priorities referred to in the 2013 roadmap was to secure the release of children and support their reintegration.

The Committee notes that, according to the Secretary-General's report of 15 May 2014, a central child protection unit has been established in the Ministry of Defence, as well as in each of the eight defence and security zones, to coordinate the monitoring and protection of children's rights and to implement awareness-raising activities. Between August and October 2013, the Government and the United Nations jointly conducted screening and age verification of approximately 3,800 troops of the Chadian national army in all eight zones. The age verification standards had been previously developed during a workshop organized by the United Nations in July. In addition, between August and September 2013, a training-of-trainers programme on child protection was attended by 346 members of the Chadian National Army. As from July 2013, troops of the Chadian National Army deployed in Mali started to receive pre deployment training on child protection and international humanitarian law; in December of the same year, 864 troops attended child protection training at the Loumia training centre. ***The Committee encourages the Government to intensify its efforts and continue its collaboration with the United Nations in order to prevent the enrolment of children in armed groups and improve the situation of child victims of forced recruitment for use in armed conflict. In addition, the Committee requests the Government once again to supply information on measures taken to ensure that child soldiers removed from the armed forces and groups receive adequate assistance for their rehabilitation and social integration, including reintegration into the school system or vocational training,***

wherever appropriate. It requests the Government to supply information on the results achieved in its next report.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Comoros

Minimum Age Convention, 1973 (No. 138) (ratification: 2004)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2(3) of the Convention. Compulsory schooling and application of the Convention in practice. In its previous comments, the Committee noted that child labour was a visible phenomenon in the country, particularly as a result of poverty and of the low school enrolment rate in some cases. In this regard, the Committee noted that the capacity of schools was very limited and that some primary and secondary schools were obliged to refuse to enrol certain children of school age. Consequently, a large number of children, particularly from poor families and disadvantaged backgrounds, were deprived of an education.

The Committee noted the Government's indication that there had been a positive trend towards gender parity in school, standing at 0.87 at primary level. However, it was less satisfactory at secondary level, where the numbers of girls in school had fallen significantly. According to the Government, particular problems in the educational situation for girls involved late enrolment, a very high repetition rate – around 30 per cent in primary school and 23 per cent in secondary school – and a high drop-out rate, with only 32 per cent of pupils completing primary education.

The Committee notes the Government's statement in its report that it is taking steps to reduce the disparity in school enrolment rates for girls and boys. The Government indicates that the school mapping system is being revised by the Ministry of Education, in conjunction with the education offices and UNICEF, with a view to boosting educational coverage and ensuring better access to education for children living in rural areas. Moreover, the Committee notes that a UNICEF country programme has been adopted for 2015–19, which aims, among other things, to support the Government's efforts to enhance children's right to education. One of the main objectives of the programme is to ensure that all children are enrolled in and complete inclusive, high-quality education, with the focus on equity and achievement.

However, the Committee notes that section 2 of Framework Act No. 94/035/AF of 20 December 1994 provides that schooling is only compulsory from 6 to 12 years of age, which is three years earlier than the minimum age for admission to employment or work, namely 15 years. Referring to the General Survey of 2012 on the fundamental Conventions, the Committee observes that if compulsory schooling comes to an end before children are legally entitled to work, a vacuum may arise which regrettably opens the door for the economic exploitation of children (paragraph 371). The Committee therefore considers it desirable to raise the age of completion of compulsory schooling so that it coincides with the minimum age for admission to employment or work, as provided for in Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). ***Recalling that compulsory education is one of the most effective means of combating child labour, the Committee strongly encourages the Government to take the necessary steps to make education compulsory until the minimum age for admission to employment, namely 15 years. Moreover, the Committee requests that the Government intensify its efforts to increase the school attendance rate and reduce the school drop-out rate, especially among girls, in order to prevent children under 15 years of age from working. The Committee requests that the Government provide information on the results achieved in this respect.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Congo

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted that a large number of children were involved in economic activity but that no national policy had been adopted in this regard. It noted the Government's indication that there were no inspection reports providing any information on the presumed or actual employment of children in enterprises in Congo during the reporting period. However, the Committee noted that 25 per cent of Congolese children were involved in child labour, according to UNICEF statistics.

The Committee notes with **regret** that the Government's report still does not contain any information on the adoption of a national policy for ensuring the effective abolition of child labour. The Committee also observes that the United Nations Committee on the Rights of the Child (CRC), in its concluding observations of 2014, noted that child labour and the economic exploitation of children remain widespread, particularly in the big cities (CRC/C/COG/CO/2-4, paragraph 74). **Expressing its deep concern at the large number of children working below the minimum age in the country, and given the lack of a national policy designed to ensure the effective abolition of child labour, the Committee once again urges the Government to take the necessary steps to ensure the adoption and implementation of such a policy as soon as possible. It requests that the Government provide detailed information in its next report on the measures taken in this respect.**

Article 3(2) and (3). Determination of hazardous types of work and age of admission to hazardous work. In its previous comments, the Committee noted that section 4 of Order No. 2224 of 24 October 1953, which establishes employment exemptions for young workers, determines the types of work and the categories of enterprises prohibited for young persons and sets the age limit for the prohibition, prohibits the employment of young persons under 18 years of age in certain hazardous types of work, and includes a list of such types of work.

The Committee notes the Government's indication that Order No. 2224 is no longer in force. The Committee also notes that section 68(d) of Act No. 4-2010 of 14 June 2010 concerning child protection (Child Protection Act) provides that any work which, by its nature or the conditions in which it is performed, is likely to harm the health, safety or morals of the child is prohibited. It also provides that a decree issued further to the opinion of the National Labour Advisory Committee shall determine the list and the types of work and the categories of enterprises prohibited for children and the age limit for the prohibition. **The Committee requests that the Government take the necessary steps to ensure the adoption as soon as possible of the decree determining the list of hazardous types of work, in accordance with section 68(d) of the Child Protection Act.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Democratic Republic of the Congo

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

Previous comments: [observation](#) and [direct request](#)

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted that a large number of children were involved in child labour, including under hazardous conditions.

The Committee notes the information provided by the Government on its efforts to improve access to the school system in order to withdraw children from child labour and reintegrate them through the "Sectoral strategy for education and training (SSEF) 2016–25". However, the Committee

notes the Government's report does not contain any information on current data relating to the employment of children and young persons, or any information on the monitoring and supervision of working children.

In this regard, the Committee notes from the 2017–18 MICS (multiple indicator cluster surveys) report produced by UNICEF that 15 per cent of children between 5 and 17 years of age are engaged in child labour and 13 per cent of children between 5 and 17 years of age work under conditions which are dangerous for their health. In the northern provinces of the country (Haut Uelé, Bas Uelé, Sud Ubangui, Ituri and Nord Ubangui) and in Lomami, Kasai and Maniema, between 20 and 30 per cent of children between 5 and 17 years of age are involved in child labour. While noting the measures taken by the Government, the Committee is bound to express its **deep concern** at the number of children exposed to child labour, including under hazardous conditions. ***The Committee once again requests the Government to intensify its efforts to ensure the progressive elimination of child labour. It requests the Government to provide information on the application of the Convention in practice, particularly statistics, disaggregated by gender and age, on the employment of children and young persons, and also extracts from the reports of the inspection services.***

Article 2(1). Scope of application and labour inspection. The Committee previously noted the concern expressed by the United Nations Committee on the Rights of the Child (CRC) regarding the large number of children who work in the informal economy and who are often not covered by the protection measures established by the national legislation.

The Committee notes the Government's indication in its report that reforms have been undertaken with a view to capacity-building for the labour inspectorate, including through the implementation of the project "Support for progress in labour standards in the Democratic Republic of the Congo (SPNT) 2022–25", in collaboration with the ILO and the US Department of Labor. This project will help to strengthen the capacities of the labour inspectorate. As part of capacity-building for labour inspectors and controllers, steps have been taken to allocate them a permanent allowance, which was adjusted in 2020. The practical guide for labour inspectors is a tool for gathering information during routine and special inspections in enterprises and establishments of all kinds, including in relation to child labour. ***The Committee requests the Government to continue taking measures to adapt and reinforce labour inspection services in order to guarantee the supervision of child labour and ensure that all children enjoy the protection afforded by the Convention, including those who work in the informal economy. In this regard, the Committee requests the Government to provide information on the results achieved in the context of the SPNT. It also requests the Government to provide information on the structure, operation and activities of the labour inspectorate relating to child labour.***

Article 2(3). Age of completion of compulsory schooling. Further to its previous comments, the Committee notes the Government's indication in its report that there has been an increase in the gross school enrolment rate for both girls and boys between 2018 and 2020.

The Committee also notes that, according to the 2021 UNICEF report on education challenges in the Democratic Republic of the Congo, the net school attendance rate rose from 52 per cent in 2001 to 78 per cent in 2018. However, UNICEF points out that about 4 million children between 6 and 11 years of age are still out of school and account for some 21 per cent of the total number of children in this age group, and that only one third of children are in secondary education.

In this regard, the Committee also notes the information on the 2019–20 compendium of school statistics produced by the Technical Unit for Education Statistics with technical support from UNESCO, according to which a total of 13,872,674 girls and 12,190,775 boys are enrolled in pre-primary, primary and secondary classes.

The Committee further notes the various activities undertaken by the Government to improve children's access to education, particularly the meeting of the Sectoral Consultation Committee in September 2022, the "SSEF joint mid-term review", and also the progress made on projects, including

the “Project to improve the quality of education (PAQUE)”, and the “Project for greater equality and strength in the education system (PERSE)”. Moreover, a survey was also conducted with regard to the return to school of more than 2 million pupils since 2019. ***In view of the fact that compulsory education is one of the most effective means of combating child labour, the Committee requests the Government to continue its efforts to ensure the entry into the education system of children who have not reached the minimum age of 14 years for admission to employment or work.***

Article 3(3) of the Convention. Admission to hazardous work from the age of 16 years. In its previous comments, the Committee noted that, according to figures contained in the “Second demographic and health survey” (EDS-RDC II 2013–14), 27.5 per cent of children under 18 years of age have worked under dangerous conditions and that working conditions that fulfil the requirements of *Article 3(3)* of the Convention have not been established.

The Committee notes the Government’s indication in its report that it has planned to supplement the provisions of Ministerial Order No. 12/CAB.MIN/TPSI/045/08 of 8 August 2008 (Order of 8 August 2008) establishing conditions of work for children, in such a way as to bring the regulations on admission to hazardous work from the age of 16 years into line with *Article 3(3)* of the Convention. The Committee recalls that the flexibility clause established in *Article 3(3)* of the Convention allows the competent authority to authorize hazardous work from the age of 16 years only if the following requirements are met: (a) prior consultation must be held with the employers’ and workers’ organizations; (b) the health, safety and morals of the young persons concerned must be fully protected; and (c) it must be ensured that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity. ***The Committee once again urges the Government to take the necessary regulatory measures to ensure that the performance of hazardous work by young persons between 16 and 18 years of age is authorized only if the requirements of Article 3(3) of the Convention are met.***

Article 7. Light work. In its previous comments, the Committee noted that section 17 of the Order of 8 August 2008 contains a list of light and healthy types of work authorized for children under 18 years of age but does not set a minimum age from which children may perform light work or establish the conditions under which light work may be performed.

The Committee notes the Government’s indications that it undertakes to amend and supplement, with the agreement of the National Labour Council, the provisions of section 17 of the Order of 8 August 2008 regarding the minimum age from which children may perform light work and under which conditions, including by incorporating the provisions of Paragraph 13 of the Minimum Age Recommendation, 1973 (No. 146), which gives effect to *Article 7(3)* of the Convention.

The Committee once again reminds the Government that *Article 7(1) and (4)* of the Convention is a flexibility clause under which national laws or regulations may permit the employment of children between 12 and 14 years of age in light work, or the performance by these children of such work, provided that it is: (a) not likely to be harmful to their health or development; and (b) not such as to prejudice their attendance at school, their participation in vocational guidance or training programmes approved by the competent authority, or their capacity to benefit from the instruction received. ***The Committee once again requests that the Government take the necessary steps to ensure that the types of work referred to in section 17 of the Order of 8 August 2008 are authorized only for children who are at least 12 years of age, provided that the requirements set out in Article 7(1) and (4) of the Convention are met.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Previous comment

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. Forced recruitment of children for use in armed conflict. In its previous comments, the

Committee expressed its deep concern at the large number of children recruited by armed groups, including the armed forces.

The Committee notes the Government's reference in its report to the adoption of the strategy of the Disarmament, Demobilization, Community Recovery and Stabilization Programme (P-DDRCS) in April 2022. This programme is based on five major pillars, consisting of: (i) conflict resolution; (ii) restoration of state authority and security; (iii) economic recovery and community reintegration; (iv) stabilization, economic and social development; and (v) communication and awareness-raising in the east of the country.

The Committee observes that, according to the report of 23 June 2022 of the United Nations (UN) Secretary-General (A/76/871-S/2022/493, paragraphs 52–68), the UN verified 3,546 violations committed against 2,979 children (2,090 boys, 889 girls) between January and December 2021. The report also mentions that: (1) a total of 565 children (487 boys, 78 girls) who had been separated from armed groups in 2021 were recruited again and used by these groups. Of these 565 children, 241 children were used in combat, 324 children were used in support roles and 42 girls were used for, and subjected to, sexual violence; (2) a total of 436 children (7 boys, 429 girls) were subjected to sexual violence, with 336 violations committed by armed groups and 100 by government forces; (3) a total of 684 children (416 boys, 268 girls) were abducted, 669 by armed groups and 15 by the armed forces; and (4) a total of 69 schools were attacked and four schools were used for military purposes by the national armed forces.

The Committee also notes that the UN Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations on the eighth periodic report in 2019 (CEDAW/C/COD/CO/8, paragraph 28), expressed concern at reports of trafficking in persons and of exploitation and forced prostitution of girls in conflict areas, including in North Kivu.

While noting the measures taken by the Government and recognizing the difficult situation prevailing in the country, the Committee once again expresses its **deep concern** at the persistent recruitment and use of children in armed conflict in the Democratic Republic of the Congo, especially as this gives rise to other serious violations of the rights of the child, such as abductions, killings, sexual violence and attacks on schools. **The Committee therefore urges the Government: (1) to take measures with the utmost urgency to proceed, in the context of the P-DDRCS, with the immediate and full demobilization of all children and put an end in practice to the forced recruitment of children under 18 years of age into armed groups and the armed forces and to provide information on the results achieved; (2) to take immediate and effective measures to ensure the thorough investigation and prosecution of persons, including officers of the regular armed forces, who recruit children under 18 years of age for use in armed conflict, and to ensure that penalties constituting an effective deterrent are imposed in practice, pursuant to Act No. 09/001 of 10 January 2009; and (3) to provide information on the number of investigations conducted, prosecutions brought and convictions handed down with respect to such persons and the penalties imposed.**

Clauses (a) and (d). Forced or compulsory labour and hazardous work. Child labour in mines. Further to its previous comments, the Committee duly notes the Government's indications that a mechanism for the supervision, observation and monitoring of child labour in artisanal mines and at artisanal mining sites has been put in place in the context of the project entitled "Combating child labour in the Democratic Republic of the Congo's cobalt industry (COTECCO)", in partnership with the ILO and with funding from the US Government. This mechanism makes it possible: (1) to identify the real number of children working at artisanal mining sites; (2) to constitute a database of children working in mines; (3) to follow up the process of social/occupational or educational reintegration of children withdrawn from mining sites; and (4) to implement a communication and awareness-raising strategy for all stakeholders regarding action against child labour.

The Committee notes the adoption on 18 October 2017 of the plan for the implementation of the “National sectoral strategy to combat child labour in artisanal mines and at artisanal mining sites in the Democratic Republic of the Congo 2017–25” (CAB.MIN./MINES/02/1315/2017). The Committee also notes Ministerial Order No. 00122/CAB.MIN/MINES/01/2020 of 6 March 2020 on the establishment of the inter-ministerial committee for monitoring the issue of child labour in artisanal mines (CISTEMA), whose primary role is to implement the national strategy against child labour.

The Committee also notes that the UN Committee on Economic, Social and Cultural Rights (CESCR), in its concluding observations of 28 March 2022 (E/C.12/COD/CO/6, paragraph 44), expressed concern at the fact that, despite the adoption of the national sectoral strategy against child labour in artisanal mines and at artisanal mining sites for the 2017–25 period, large numbers of children continue to work in the mining sector.

While duly noting the measures taken by the Government, the Committee expresses its **concern** at the large number of children working in mines under hazardous conditions. ***The Committee requests the Government to provide information on the actual implementation of the “National sectoral strategy to combat child labour in artisanal mines and at artisanal mining sites in the Democratic Republic of the Congo 2017–25”. The Committee also requests the Government to provide information on the results achieved in the context of the COTECCO project. Furthermore, the Committee once again requests the Government to take the necessary steps to ensure the thorough investigation and effective prosecution of offenders and to ensure that penalties constituting an effective deterrent are imposed in practice.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from such work and ensuring their rehabilitation and social integration. 1. Child soldiers. The Committee notes the Government’s indications that the P-DDRCS steering committee is functional, but it notes the absence of information on child soldiers.

The Committee notes the indication in the report of the UN Secretary-General of 21 March 2022 on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) that Presidential Ordinance No. 22/003, published on 7 January, assigned to the Ministry of Defence and former combatants the responsibility for planning and implementing the demobilization of ex-combatants and children associated with the armed forces and armed groups with a view to reintegrating them in the community.

Furthermore, the Committee notes that the implementation of the “Accelerated presidential programme against poverty and inequality (PPA-LCPI)” will primarily target population groups which are extremely poor, vulnerable and exposed to security-related, endemic and environmental risks and that the provinces affected by armed conflict are considered as priority intervention areas for the programme.

However, the Committee notes that the UN Committee on Economic, Social and Cultural Rights (CESCR), in its concluding observations of 28 March 2022 (E/C.12/COD/CO/6, paragraph 44), expressed concern at the fact that, in the context of the armed conflict in the country, many children are in a situation of extreme vulnerability and neglect and are thus exposed to a risk of being recruited by armed groups. ***The Committee once again urges the Government to intensify its efforts and take effective and time-bound measures to remove children from the armed forces and armed groups and ensure their rehabilitation and social integration through the Ministry of Defence in the context of the P-DDRCS strategy. The Committee also requests the Government to provide information on the number of child soldiers, disaggregated by age and gender, who have been removed from the armed forces and armed groups and have been reintegrated through appropriate assistance with rehabilitation and social integration.***

2. Children working in mines. The Committee takes due note of the Government’s indication in its report that in addition to the “National sectoral strategy against child labour in artisanal mines and at

artisanal mining sites in the Democratic Republic of the Congo 2017–25” and the COTECCO project, other actions have been undertaken, including the “Project to support the alternative welfare of children and young people involved in the cobalt supply chain (PABEA-Cobalt) 2019–24”, which is being implemented and targets a total of 14,850 children and 6,250 parents. The Committee also notes the engagement of the Ministry of Mining in 2020 in the “Cobalt action partnership (CAP)”, whose objectives include: combating child labour and forced labour; implementing the Decent Work Country Programme (DWCP) 2021–24, including promoting decent employment for young persons in a post-conflict context and sustainable development in partnership with the ILO; and continuing with the “Plan for the elimination of the worst forms of child labour by 2020 (PAN)”. **While noting the Government’s efforts to prevent the engagement of children under 18 years of age in work in mining and to remove them from this worst form of child labour, the Committee requests the Government to continue its efforts to implement the various projects to combat hazardous work for children in mining. It requests the Government to provide information on the results achieved in this regard. The Committee also requests the Government to provide information on necessary and appropriate direct assistance to ensure the rehabilitation and social integration of these children.**

The Committee is raising other matters in a request addressed directly to the Government.

Dominican Republic

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Previous comment

The Committee notes the observations of the National Confederation of Trade Union Unity (CNUS), the National Confederation of Dominican Workers (CNTD) and the Autonomous Confederation of Workers’ Unions (CASC), received on 1 September 2021.

Article 2(3) of the Convention. Completion of compulsory schooling. With reference to its previous comments, the Committee notes that, according to the National Multipurpose Household Survey (ENHOGAR MICS 2019), the net school attendance rate of boys and girls of primary school age was 96.9 per cent in 2019 for urban areas and 95.3 per cent for rural areas, while the school attendance rate for boys and girls of the age to go to the first cycle of secondary school (12 to 14 years of age) was 81.8 per cent in urban areas and 74.4 per cent in rural areas, which is an increase from previous years (in 2016, the rate was 66.5 per cent for girls and 57.7 per cent for boys). The Committee notes with **interest** that Order No. 2-2016 of the Ministry of Education, referred to in the Government’s report, establishes measures to facilitate coordination between families, education establishments and the National Council for Children and Young Persons (CONANI) to follow up school attendance. In accordance with section 18 of the Order, on the third consecutive day of unjustified absence by a student, the respective teacher must inform the CONANI of the absence in writing, and the CONANI will be responsible for investigating the situation. The Committee also notes that the Government has been implementing various programmes to promote access to secondary education, including the “*Te quiero en Secundaria*” (You are wanted in secondary school), intended for young persons who have dropped out of secondary school, with a view to promoting their reintegration as students based on an analysis of the causes of them dropping out. **The Committee encourages the Government to continue taking measures to ensure compulsory schooling for all boys and girls up to the age of 14 years (primary school and the first cycle of secondary education), and requests it to continue providing updated statistical information on school registration, attendance and drop-out rates.**

Article 3(1) and (2). Hazardous types of work. The Committee notes the Government’s indication that it is engaged in updating the list of hazard types of work for children, and in improving follow-up and monitoring information systems and awareness raising for enterprises and workers. The Committee observes that, according to the ENHOGAR MICS 2019, the percentage of persons between the ages of

5 and 17 years working under hazardous conditions was 5.1 in urban areas (16,042) and 7.5 per cent in rural areas (5,906). The Committee recalls that, in accordance with *Article 3(2)* of the Convention, the types of employment or work considered to be hazardous shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned. The Committee considers that these consultations could be held in the round table established in 2016 on matters relating to international labour standards. ***The Committee requests the Government to continue taking measures to prevent persons under 18 years of age from performing work considered to be hazardous and to report on progress in the adoption of the new list of hazardous types of work that is being prepared in consultation with the social partners. The Committee also requests the Government to indicate whether violations have been detected under Resolution No. 52/2004 on hazardous and unhealthy types of work prohibited for persons under 18 years of age and, if so, the penalties imposed.***

Application of the Convention in practice and labour inspection. In reply to its previous comments, the Committee notes the Government's indication that: (i) within the framework of the road map to make the Dominican Republic a country free of child labour and the worst forms of child labour, round tables have been established to follow up the action to prevent and eradicate child labour, with the participation of the various institutions that are members of the National Steering Committee to Combat Child Labour; (ii) the Ministry of Labour has carried out awareness-raising campaigns on child labour for employers, workers, officials of the Ministry of Labour, actors in education and religious and community leaders; and (iii) plans are being made for the conclusion of an inter-institutional agreement between the Ministry of Labour and the Ministry of Education for the prevention and eradication of child labour.

However, the Committee also notes that, according to the ENHOGAR MICS 2019, the proportion of boys and girls between the ages of 5 and 17 years engaged in child labour was 3.8 per cent (4.6 per cent for boys and 3 per cent for girls), with the majority between the ages of 5 and 11 years. The Committee also notes the indication by the CNUS, CNTD and CASC that, although some action has been taken to contribute to addressing the issue of child labour, it is inadequate and would benefit from greater follow-up by the labour inspectorate and other social institutions. ***While noting the measures taken, the Committee requests the Government to take stronger action for the progressive and full elimination of child labour, including in the informal economy, and requests it to continue providing information on the measures adopted within the context of the road map and their results. In this regard, the Committee requests the Government to report on the activities of the labour inspectorate in this connection (including information on the number and nature of the violations reported, the sectors concerned and the penalties imposed). Finally, it requests the Government to continue providing updated statistical data on the extent and trends of child labour in the country.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Previous comment

Articles 3(a) and (b) and 7(1) of the Convention. Sale and trafficking of children for commercial sexual exploitation, and penalties. The Committee notes the Government's response, in reply to its previous comments, that in 2020 the Special Prosecutor's Office against the Illicit Trafficking of Migrants and Human Trafficking reported 41 cases of commercial sexual exploitation of young persons under 18 years of age; and that between 2016 and 2020 a total of 239 cases of illicit human trafficking involving minors were recorded. Moreover, according to information on the official website of the Attorney-General's Office, between May 2017 and March 2019 legal proceedings were opened in 139 cases relating to commercial sexual exploitation, illicit trafficking of migrants, child pornography and human trafficking. These cases involved 88 victims under 18 years of age, and convictions were handed down in 33 cases.

The Committee also notes that the United Nations (UN) Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, observes in the 2018 report on her visit to the Dominican Republic that a significant proportion of foreign tourists come to the country for the purpose of sexual exploitation, including of girls, and that child sexual exploitation is especially concentrated in beach areas such as Bávaro, Boca Chica, Sosúa, Cabarete and Las Terrenas. The UN Special Rapporteur also highlights the fact that intermediaries who facilitate child sexual exploitation form part of a chain that includes pimps, taxi drivers, and owners of motels, night clubs and car-wash facilities, and that these criminal structures often operate with the complicity of the local authorities (A/HRC/37/60/Add.1, paragraphs 18 and 19). Taking account of the fact that the trafficking of children for commercial sexual exploitation has been an extensive problem in the country, particularly in the tourism sector, and that there has been a high degree of impunity in this sphere, the Committee notes with **deep concern** this information and also the low number of convictions in relation to the number of cases involving the trafficking and commercial sexual exploitation of minors.

Lastly, with regard to the revision of the Penal Code for the purpose of reinforcing the penalties for perpetrators of the sale and trafficking of children for commercial sexual exploitation, the Committee notes that the new draft Code has already been approved by the Chamber of Deputies and is being reviewed by a special committee of the Senate of the Republic. ***The Committee once again firmly urges the Government to take all necessary steps without delay to ensure that circumstances which constitute the sale and trafficking of children for exploitation are investigated and that the perpetrators are duly prosecuted and penalized. The Committee requests the Government to continue sending information on the application in practice of section 3 of Act No. 137-03 on the illicit trafficking of migrants and other persons which criminalizes the trafficking of children for commercial sexual exploitation, and sections 408-410 of the Code for the protection of the rights of children and young persons, which establish penalties for the commercial sexual exploitation of minors. Lastly, the Committee requests the Government to continue sending information on progress made with regard to the adoption of a new Penal Code.***

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Commercial sexual exploitation in the tourism industry. The Committee notes the Government's indication, in reply to its previous comments, that the Central Tourism Police Department (POLITUR) has a "Programme for the protection of children and young persons" aimed at protecting children and young persons against all forms of violence, abuse, exploitation and trafficking, especially those that occur as a result of tourism-related activities. In order to achieve this objective, POLITUR coordinates its actions with the Public Prosecutor's Office, the hotel sector and tourism clusters. The Committee also notes that the Ministry of Labour has established a committee to work on aspects of commercial sexual exploitation and other worst forms of child labour in coordination with the Attorney-General's Office, the National Council for Children (CONANI), and other institutions that are part of the National Steering Committee to Combat Child Labour and the Inter-institutional Commission against the Abuse and Commercial Sexual Exploitation of Children. Within the above-mentioned committee, awareness-raising workshops have been held for members of tourism clusters throughout the country. In addition, the Ministry of Labour has established local, provincial and municipal steering committees in all provinces of the country, including in tourist areas, and also watchdog committees or units in municipalities and districts where there are no labour offices. The Committee notes that the UN Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, observed in her 2018 report that the province of Puerto Plata is one of the main centres of child sexual exploitation in tourism and that the local authorities are overwhelmed by the problem without the support of the central authorities to prevent and combat it. The Special Rapporteur also expressed regret at the lack of real and effective involvement on the part of the Ministry of Tourism in combating child sexual

exploitation in tourism (A/HRC/37/60/Add.1, paragraphs 20 and 61). ***The Committee requests the Government to intensify its efforts and continue to adopt effective time-bound measures to prevent the commercial sexual exploitation of children in the tourism industry, in coordination with central and local authorities and in collaboration with the various actors in the aforementioned industry (Ministry of Tourism, hotel sector and other tourism enterprises). The Committee also requests the Government to send information on this matter and also on the watchdog activities of POLITUR to protect children and young persons against commercial sexual exploitation in tourism-related activities.***

Clause (b). *Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Commercial sexual exploitation.* Further to its previous comments on the number of child victims of commercial sexual exploitation who have received assistance and been removed from such exploitation, the Committee notes with **regret** that the Government has once again not provided information on this matter. Furthermore, the Committee observes that the UN Special Rapporteur on the sale and sexual exploitation of children noted with regret in her 2018 report the absence of accessible complaint mechanisms for child victims of violence, abuse and sexual exploitation (A/HRC/37/60/Add.1, paragraph 54). ***The Committee therefore requests the Government to take measures to ensure that child victims of commercial sexual exploitation, or their parents or tutors, can access complaint mechanisms rapidly, easily and free of charge, and can also access programmes for their rehabilitation and social reintegration. In this regard, it requests the Government to send up-to-date statistical information on the number of child victims of commercial sexual exploitation who have been identified, rescued and rehabilitated.***

The Committee is raising other matters in a request addressed directly to the Government.

El Salvador

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Previous comment

Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and penalties. Sale and trafficking of children. In its previous comments, the Committee welcomed the adoption of the Special Act to combat trafficking in persons, which criminalizes and penalizes the crime of trafficking in boys, girls and young persons for sexual or labour exploitation and establishes measures for prevention and the protection of victims. In response to the request for information on the effect given in practice to the Act, the Committee notes the indication by the Government in its report that: in 2019 a case of trafficking in persons for labour exploitation was prosecuted involving five victims under 18 years of age of Guatemalan nationality, and that four of those charged were convicted. The National Civil Police recorded eight cases of the trafficking of minors in 2018 (three for labour exploitation and five for sexual exploitation) and 19 cases in 2019 (three for labour exploitation and 16 for sexual exploitation); 15 cases were referred to the National Council for Children and Young Persons (in charge of providing assistance to child victims of trafficking) involving boys, girls and young persons who were presumed victims of trafficking; and the Ministry of Education, Science and Technology identified 73 students affected by the crime of trafficking. The Committee also notes the detailed information on action to prevent trafficking in children and young persons, including: (i) training days on trafficking for police responsible for prevention and immigration officials; (ii) awareness-raising talks for students in public and private educational institutions; and (iii) coverage of the crime of trafficking in persons in the education curriculum at all levels, with a view to promoting a culture of denouncing the crime. Health workers have also been trained in the early detection of victims of trafficking, as a result of which 28 presumed cases of trafficking were detected in 2019 involving children and young persons between the ages of 10 and 17 years, which were referred to the Office of the Public Prosecutor for the respective

investigations. The Committee notes that, in its concluding observations in 2018, the United Nations Committee on the Rights of the Child expressed concern at the occurrence of child trafficking in schools (CRC/C/SLV/CO/5-6, paragraph 42). **Noting the measures adopted by the Government, the Committee encourages it to continue taking measures to prevent, investigate and punish trafficking of children and young persons for labour and sexual exploitation. It also requests the Government to continue providing updated statistical information on the number of investigations, prosecutions and convictions in cases of trafficking of children and young persons under the Special Act to combat trafficking in persons.**

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. In its previous comments, the Committee noted the various measures adopted by the Government to facilitate the access to education of boys and girls in a situation of poverty and requested the Government to provide information on their results. In this regard, the Committee notes the Government's indication that programmes for the provision of school uniforms and materials to children in public educational institutions are continuing and that measures have been taken to improve the infrastructure in educational establishments with a view to creating safe and pedagogically appropriate spaces to bring together students and communities. A total of 727 school infrastructure and furniture projects were carried out in 2018, 1,334 in 2019, 667 in 2020 and 93 between January and April 2021. Moreover, between 2018 and 2020, a total of 1,048,953 children and young persons in initial or middle education benefited from the provision of school meals. The Committee also notes the adoption of various measures to eradicate poverty, including transport vouchers for young persons in the third cycle of the general or technical baccalaureate in any of the forms provided by the Ministry of Education, as well as additional vouchers for young mothers who are still in the education system.

The Committee also notes, according to the 2017 report of the Ministry of Education Observatory of Subsidized Public and Private Educational Establishments in El Salvador, that 44.61 per cent of educational establishments in 2017 were in communities where gangs are present; 38.11 per cent were located in areas where theft and/or burglaries are reported; 34.62 per cent are in areas where drugs are circulating; 27.62 per cent in areas where the carrying of knives and firearms have been identified; and 18.76 per cent in areas where extortion is practiced. It also notes that in its 2018 concluding observations, the Committee on the Rights of the Child emphasizes the overwhelming impact of violence on children's access to education, with the majority of schools situated in communities where there is a high crime rate and a high number of killings of teachers and students (CRC/C/SLV/CO/5-6, paragraph 42). The United Nations Special Rapporteur on the human rights of internally displaced persons, in her 2018 report on her visit to El Salvador, also indicates that schools in some localities are no longer considered safe spaces for children, teachers are threatened, gangs operate within and around some school facilities where they recruit children, expose them to gang-related criminal activities, and identify girls as sexual targets for gang members (A/HRC/38/39/Add.1, paragraph 22).

While recognizing that the Government has adopted certain measures to facilitate the access of children and young persons to free basic education, the Committee notes with **concern** the existence of a climate of violence in certain areas of the country, which could have a negative impact on the access of children and young persons to education. **Recognizing the difficult security situation in the country, and considering that education is key in preventing the engagement of children in the worst forms of child labour, the Committee urges the Government to renew its efforts to improve the education system and to continue facilitating access to free basic education for children living in all the regions of the country. The Committee also requests the Government to provide information on the progress achieved in this respect, and on the results of the various educational support programmes for poor children.**

The Committee is raising other matters in a request addressed directly to the Government.

Eritrea

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

Previous comments: [observation](#) and [direct request](#)

Article 1 of the Convention. National policy and application of the Convention in practice. Following its previous comments, the Committee notes the Government's information, in its report, regarding the action taken by the Ministry of Labour and Social Welfare (MLSW) to support and assist marginalized women to become independent and generate income through the provision of training and micro credit. The Government indicates that this can have an impact on the elimination of child labour. The Committee also notes the Government's indication that necessary measures will be taken at the appropriate time to develop the national plan of action on the elimination of child labour, which the Government had referred to in its previous report. **While noting the measures taken by the Government, the Committee once again urges it to intensify its efforts to progressively eliminate child labour in the country by adopting and implementing the National Action plan for the elimination of child labour. The Committee requests the Government to continue to provide information on the application of the Convention in practice, in particular statistical data on the employment of children and young persons by age group.**

Article 2(1) of the Convention. Scope of application and labour inspection. Self-employment. Following its previous comments, the Committee notes once again the Government's indication that it is engaged in including self-employment within the draft amendments to the Labour Proclamation No. 118/2001 (Labour Proclamation), which currently excludes self-employed workers from its scope of application. The Committee also notes the Government's indication that the Labour Inspectorate regularly monitors workplaces and that, in this regard, measures are being taken to improve the number and quality of labour inspections through various trainings. For example, new labour inspectors were given training in August 2022, raising the number of inspectors to 55. **Recalling that the Committee has been requesting the Government to take the necessary measures in this respect for many years, the Committee once again strongly urges the Government to strengthen its efforts to ensure that the protections provided under the Labour Proclamation are extended to children working outside of an employment relationship in the very near future. The Committee also requests the Government to continue to take measures to strengthen the capacity of the labour inspection system to adequately monitor and detect cases of child labour in the country, in particular self-employed children or children working in the informal economy. It further requests the Government to provide information on the number of inspections on child labour carried out by the labour inspectors as well as on the number and nature of violations detected and penalties applied.**

Article 2(3) and (4). Age of completion of compulsory schooling. **With regard to the measures taken to improve access to education, the Committee refers to its comments under the Worst Forms of Child Labour Convention, 1999 (No. 182).**

Article 3(2). Determination of the types of hazardous work. Following its previous comments, the Committee notes with **regret** that the Government once again indicates that the MLSW is engaged in the process of finalizing the regulation issuing the list of hazardous activities prohibited to persons under the age of 18 years. The Committee once again recalls that the Government has been referring to the upcoming adoption of a list of hazardous activities prohibited to young employees since 2007. **The Committee accordingly strongly urges the Government to take the necessary measures to ensure that the ministerial regulation issuing the list of hazardous activities prohibited to persons under the age of 18 is adopted in the near future. It once again requests the Government to provide a copy, once it has been adopted.**

Article 7. Light work. Following its previous comments, the Committee notes the Government's indication that, considering that children often combine light work with schooling and are usually engaged in gainful employment for an income to supplement family living expenses, the MLSW is envisaging regulating and determining the types of activities, number of hours and conditions in which light work may be undertaken by children from the age of 12, in conformity with Article 7 of the Convention. **Considering that it has been raising this question for a number of years, the Committee urges the Government to take the necessary measures to regulate and determine the types of activities, the number of hours and the conditions under which light work may be undertaken by children from the age of 12 years, as required under Article 7 of the Convention. It requests the Government to provide information on the progress made in this regard.**

Article 9(3). Keeping of registers by employers. Following its previous comments, the Committee notes with **regret** that the Government indicates once again that the MLSW is still undertaking studies to develop the regulation on the registers of employment to bring it into conformity with Article 9(3) of the Convention. **Noting that the Government has been referring to the adoption of this regulation since 2007, the Committee once again urges the Government to take the necessary measures to ensure that the regulation concerning the registers to be kept by employers is adopted without delay. It also once again requests the Government to provide a copy, once it has been adopted.**

The Committee strongly encourages the Government to seek ILO technical assistance in its efforts to combat child labour.

Eswatini

Minimum Age Convention, 1973 (No. 138) (ratification: 2002)

Previous comment

Article 1 of the Convention. National policy. Revision of the Employment Act. Following its previous comments, the Committee notes that the Employment Bill, 2022, was approved by the Attorney-General and that the legislative process for its adoption (via Cabinet and Parliament) is to follow. **The Committee encourages the Government to take the necessary steps to ensure that the Employment Bill, 2022, is adopted without delay, taking into consideration the comments made by the Committee. It requests the Government to provide a copy of the adopted Employment Act with its next report.**

Article 2(1). Scope of application and labour inspection. Informal economy, including family undertakings. The Committee observes that, while the current Employment Act excludes domestic employment, agricultural undertakings and family undertakings from its scope of application, and therefore from the coverage of its minimum age provisions, the Employment Bill, 2022, removes these exclusions and sets a minimum age of 15 for employment or work for all workers, including those working in the informal economy. The Committee further notes the Government's information, in its report, regarding the capacity building workshops it is continuing to conduct for labour inspectors. In particular, the Committee notes that Eswatini has availed itself of ILO technical assistance to introduce the ILO Strategic Labour Compliance Planning on labour inspection, which seeks to address the challenges posed by the lack of resources and position labour administration systems to achieve more with less by maximizing available resources. Measures for improved labour inspection to better monitor child labour violations are also expected to be undertaken in the framework of the Action Programme on Combating Child Labour in Eswatini 2021-26 (APCCL). **The Committee requests the Government to continue to take measures to strengthen the capacity of labour inspectors with a view to allowing them to better monitor and identify cases of child labour in the informal economy. It asks the Government to provide information on the measures taken in this regard, within the framework of the APCCL or otherwise, and the results achieved.**

Article 2(3). Age of completion of compulsory education. Following its previous comments, the Committee notes the Government's statement that compulsory and free primary education does not necessarily end at 12 years, but that some children finish primary education later, in which case it remains free. The Committee reminds the Government that, regardless of the age when some children finish primary education in practice, the age of completion of compulsory education must, by law, be linked to the age of admission to employment or work (2012 General Survey on the fundamental Conventions, paragraph 369). Currently, under the Free Primary Education Act of 2010, education is free and compulsory only in the case of primary education, which normally ends when the child is 12 years of age (unless the child in question either dropped out of school or faced other difficulties in schooling, such as repetition).

The Committee notes, in this regard, the Government's indication that one of the goals of the Education Sector Policy of 2018 is the provision of an equitable and inclusive education system that affords all learners access to free and compulsory basic education and senior secondary education of high quality. ***Considering that compulsory education is one of the most effective means of combating child labour, the Committee once again urges the Government to take the necessary steps to make education compulsory (and not only free) for students at the primary and lower secondary levels, up until the minimum age for admission to employment, which is 15 years in the Kingdom of Eswatini.***

Article 3(2). Determination of hazardous work. The Committee notes with **interest** that, as opposed to the Employment Act, the Employment Bill, 2022, in section 9, provides a list of types of hazardous work that are prohibited to children and young persons under 18. Moreover, the Government indicates that Regulations adopted pursuant to the Children's Protection and Welfare Act, 2012, will soon be published which also will cover the types of hazardous work prohibited to children and young persons. ***The Committee urges the Government to take the necessary measures to ensure the adoption of the Employment Bill, 2022, in the very near future. It requests the Government to provide a copy of the Regulations adopted pursuant to the Children's Protection and Welfare Act, 2012.***

Article 7. Light work. Following its previous comments, the Committee notes the Government's information that, under section 10 of the Employment Bill, 2022, children under the minimum age of 15 years can work in certain exceptional circumstances. According to subsections 1 and 3, a child (meaning a person under 15 years of age) may perform work in a family business carried on only by a parent or guardian of the child. This type of work may not be performed during school hours, during the night between 6 p.m. and 7 a.m., *for more than six hours per day or for more than 33 hours per week.*

The Committee recalls that under *Article 7(1)* of the Convention, the employment of children is permitted from *13 years of age*, in light work which is not likely to be harmful to their health or development and is not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority, or their capacity to benefit from the instruction received. Pursuant to *Article 7(3)* of the Convention, the competent authority shall determine the light work activities and prescribe the number of hours during which and the conditions in which such employment or work may be undertaken. The Committee recalls that in giving effect to *Article 7(3)* of the Convention, special attention should be given to several key indicators, including the strict limitation of the hours spent at work in a day and in a week, the prohibition of overtime, the granting of a minimum consecutive period of 12 hours' night rest, and the maintenance of satisfactory standards of safety and health and appropriate instruction and supervision (2012 General Survey on the fundamental Conventions, paragraph 396).

The Committee observes that there is no minimum age set for light work in family undertakings under section 10 of the Employment Bill, 2022 which allows children of any age to work for up to six hours per day or 33 hours per week. The Committee is of the view that children who work for up to six hours per day or 33 hours per week cannot effectively attend school, as the time needed for school work, rest and leisure could be considerably reduced, and that, therefore, this exception is not in

accordance with the Convention. In this regard, the Committee observes that, in the context of the Integrated Labour Force Survey of 2021 conducted by the National Employment Statistics Office, children between the ages of 12 and 14 working for more than 14 hours per week are considered to be engaged in child labour (page 53). ***The Committee therefore requests the Government to take the necessary measures to ensure that section 10 of the Employment Bill, 2022 is modified to set a minimum age of 13 years for the performance of work in a family business carried on only by a parent or guardian of the child, and to reduce the number of hours per week that children between the ages of 13 and 15 are permitted to work in these circumstances in order to ensure that such work is not likely to be harmful to their health or development and is not such as to prejudice their attendance at school. In this regard, the Committee suggests that examples could be taken from the Labour Force Survey of 2021 and a maximum number of 14 hours per week established as a threshold. The Committee requests the Government to provide information on the progress made in this regard.***

Application of the Convention in practice. Following its previous comments, the Committee notes that the Labour Force Survey 2021 reveals that 8.2 per cent of children of all ages are engaged in child labour in Eswatini, that most child labour occurs in rural areas (86.1 per cent) as opposed to urban areas (13.9 per cent), and that more boys than girls are engaged in child labour. According to the information reported in the document of the ACCPL, the typical kinds of work that children do in Eswatini include herding livestock, fetching water and firewood, ploughing, planting, weeding, cooking, cleaning, washing clothes and selling in kiosks. ***Noting that a significant number of children are engaged in child labour in Eswatini, the Committee requests the Government to strengthen its efforts to combat child labour. The Committee also requests the Government to continue providing updated statistical information on the situation of working children in Eswatini, including for example data on the number of children and young persons below the minimum age who are engaged in economic activities, and statistics relating to the nature, scope and trends of their work.***

The Committee is raising another matter in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

Previous comment

Article 3 of the Convention. Worst forms of child labour. Following its previous comments, the Committee notes that section 10 of the Employment Bill prohibits the worst forms of child labour. Recognizing that the Employment Bill has been subjected to a thorough process of consultations, including with the ILO, the Government indicates that it hopes that the remaining legislative process will be undertaken without further needless delays. ***The Committee therefore urges the Government to take the necessary measures to ensure that the draft Employment Bill is adopted without delay. It once again requests the Government to supply a copy thereof, once it has been adopted.***

Clause (a). Sale and trafficking of children. Following its previous comments, the Committee notes the Government's information, in its report, regarding investigations, prosecutions and convictions conducted under the People Trafficking and Smuggling (Prohibition) Act No. 11 of 2010. In particular, the Government investigated 14 suspected trafficking cases in 2018-19 – eight cases of forced labour, two sex trafficking cases, and three cases of an unknown type of exploitation – compared with 19 the previous year (2017). During the same year 2018-19 the Government initiated prosecutions of three alleged traffickers compared with one during the year 2017-18. The Committee further notes the Government's information that two cases of trafficking went to prosecution in 2020/2021, one internal and one transnational. One of the cases concerned the offences of kidnapping and sex trafficking of a girl from 2017 to 2019, for which the perpetrator was convicted to 55 years of imprisonment. The Committee notes, however, the Government's indication that resource constraints, both within the Government and NGOs providing prevention and protection services, have limited the levels of

implementation of trafficking laws, investigations and prosecutions. ***The Committee encourages the Government to strengthen its efforts to ensure the effective application of the People Trafficking and Smuggling (Prohibition) Act, and to provide information on the progress made in this regard. It requests the Government to continue to provide information on the application in practice of the Act, including the number of infringements reported, investigations, prosecutions, convictions and penalties applied for the sale and trafficking of children under 18 years of age.***

Clause (b). *Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.* The Committee notes with **satisfaction** that the Sexual Offences and Domestic Violence Act (SODV Act) was adopted in 2018, which prohibits and penalizes sexual offences including, but not limited to: (i) commercial sexual exploitation, including of children (section 13); (ii) the procurement of or benefit from prostitution, including that of children (sections 15 and 16); (iii) the use of children for pornography (section 24); and (iv) the production of, benefit from, and distribution and possession of child pornography (sections 25 to 28). The Committee notes, however, that the United Nations Committee on the Rights of the Child, in its concluding observations of 22 October 2021, remained seriously concerned at the high prevalence of sexual exploitation and abuse of children and that few cases were reported, even though the perpetrators are often known to the victims (CRC/C/SWZ/CO/2-4, paragraph 40). ***The Committee requests the Government to provide information on the application in practice of the sections mentioned above of the SODV Act, indicating the number of prosecutions, convictions and penal sanctions applied for the offences related to prostitution and pornography involving children.***

Article 4(1). *Determination of hazardous types of work.* ***With regard to the adoption of the list of hazardous types of work prohibited to children under 18 years of age, the Committee refers to its detailed comments under the Minimum Age Convention, 1973 (No. 138).***

Application of the Convention in practice. Following its previous comments, the Committee takes due note that the National Employment Statistics Unit has generated the 2021 Integrated Labour Survey, which covers issues of child employment. According to the Survey, the prevalence of child labour in the country is estimated to be at 8.2 per cent. Moreover, according to the document of the Action Programme on Combating Child Labour in Eswatini (APPCL), critical areas of child labour include domestic work, children engaged in subsistence and commercial agriculture, street children working as traders and hawkers, children working in the public and private transport sector, children engaged in scavenging and recycling, children working in formal and informal bars, children working in factories, children working in informal tourism industry and children working in the construction industry. Many of the children engaged in these forms of child labour carry out work that is hazardous and falls under the category of worst forms of child labour. Examples include livestock herding, street work and factory work under hazardous conditions. ***Noting the prevalence of child labour, including in various types of hazardous work, in Eswatini, the Committee urges the Government to strengthen its efforts to eliminate hazardous child labour. The Committee also requests the Government to continue providing information on the nature, extent, and trends of the worst forms of child labour, the number of children covered by the measures giving effect to the Convention, and information on the number and nature of infringements reported, investigations undertaken, prosecutions, convictions and penal sanctions applied. To the extent possible, all information provided should be disaggregated by age and gender.***

The Committee is raising other matters in a request addressed directly to the Government.

Ethiopia

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Previous comment

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted that according to the 2015 Child Labour Survey results, the number of children aged 5–13 years engaged in child labour was estimated to be 13,139,991 with 41.7 per cent aged between 5 and 11 years.

In response to its previous comments concerning the measures undertaken for the elimination of child labour, the Committee notes the Government's information in its report that several policies and action plans for the elimination of child labour are in place notably, the National Social Protection Policy, the Education and Training Policy, the National Occupational Safety and Health Policy and the newly endorsed National Action Plan on the Elimination of the Worst Forms of Child Labour (NAP-WFCL) 2021–2022. The Government indicates that the Tripartite Steering Committee undertook the evaluation of the 2019–2020 national action plan implementation report and identified critical challenges and crafted remedial measures. In addition, a national Tripartite plus Steering Committee comprising the Federal Government agencies, employers' and workers' organizations and civic societies have been established to execute, follow-up, monitor and evaluate the NAP 2021–22.

The Committee further notes from the Government's report under the Worst Forms of Child Labour Convention, 1999 (No. 182) that a number of projects are being implemented in collaboration with CARE-Ethiopia, the Freedom Fund, the ILO-Ethiopia Office, the Confederation of Ethiopian Trade Unions (CETU), and GIZ (German Agency for International Cooperation for sustainable development) with the objective of preventing and reducing the prevalence of child labour in Ethiopia.

The Committee however notes from the UNICEF Policy Brief 2020: *Child labour and the Youth Market in Ethiopia* that despite several initiatives taken by the Government and civil society to combat child labour, the incidence of the phenomenon remains high in Ethiopia with approximately 43 per cent of children aged 5–17 engaged in child labour. The Committee further notes from the UNICEF report entitled *A Review of Child Sensitivity in Social Policies in Ethiopia*, December 2021 that a recent study on child poverty in Ethiopia estimates that 36 million of its 41 million children are multidimensionally poor. The impact of a rise in poverty and extreme poverty, coupled with social norms that normalize child labour to some extent, make households far more likely to resort to child labour to cope with job losses associated with COVID-19. While noting the measures taken by the Government, the Committee expresses its **concern** at the significant number of children who are involved in and are at risk of being involved in child labour. **The Committee therefore urges the Government to intensify its efforts to address the situation of children engaged in child labour, and to ensure the progressive elimination of child labour. It requests the Government to provide specific information on the concrete measures taken in this regard, including within the framework of the NAP 2021-22 and the results achieved.**

Article 2(1). Scope of application and labour inspection. The Committee had previously noted that 89.4 per cent of the children engaged in child labour worked in the agricultural, forestry and fishing sectors and in wholesale and retail trade sector and the majority of children performing economic activities were working as unpaid family workers (95.6 per cent).

The Committee notes that the new Labour Law Proclamation No. 1156 of 2019, which prohibits the employment of children under 15 years, applies only to employment relations based on a contract of employment that exists between a worker and an employer (section 3). The Committee notes the Government's information that in order to monitor child labour in the informal economy, the newly structured labour administration body of the Ministry of Labour and Skills has developed a new strategy to complement the labour advisory services of the labour inspection system. Accordingly, MOU's were

signed with key Ministries including the Ministry of Health and Agriculture which has access to all households in the informal sector and uses its extension worker service to create public awareness and to detect and inform cases of child labour to the law enforcement bodies. The Government also indicates that a complaint handling mechanism has been established for filing and responding to complaints about child labour. The labour inspection service closely works with the community police, trade unions, community-based organization, women's associations, and non-governmental organizations to receive complaints and information related to child labour and exploitation. In addition, the labour inspection services have been enhanced by increasing the number of labour inspectors from 441 in 2019 to 637 in 2021 and their annual labour inspection visits raised from 39,000 in 2019 to 43,000 in 2021. Newly assigned labour inspectors were provided training on conducting inspections, particularly of child labour. Moreover, in coordination with the ILO Decent Work Country Programme, eight motor bikes and nine digital monitoring equipments were distributed to labour inspectors in six regions based on their activity. The Government indicates in its report under Convention No. 182 that in 2020 a total of 58,006 workplace inspections were carried out including inspections of child labour in enterprises. Investigation reports on 13,981 visited establishments notified that the minimum age for admission to employment (15 years) should be respected and strict screening mechanisms to determine the age of applicant need to be followed. ***The Committee requests the Government to continue to strengthen the functioning of the labour inspection system to enable it to effectively monitor and detect cases of child labour, including children working on their own account as well as in agriculture and the informal economy and to provide information on the measures taken in this regard. The Committee also requests the Government to provide statistical information on the number and nature of violations of child labour detected through the new strategy developed within the labour advisory services of the labour inspection system as well as the number of complaints related to child labour and exploitation received and handled by the Complaints Handling Mechanism within the labour inspection service.***

Article 2(2). Raising the minimum age for admission to employment or work. The Committee previously noted the Government's indication that the revised Labour Law raises the minimum working age limit of young persons from 14 to 15 years. The Committee accordingly notes with **satisfaction** that section 89(2) of the Labour Proclamation No. 1156 of 2019 prohibits the employment of persons under 15 years of age. ***The Committee once again requests the Government to consider the possibility of sending a new declaration under Article 2(2) of the Convention thereby notifying the Director-General of the ILO that it has raised the minimum age that it had previously specified.***

Article 2(3). Age of completion of compulsory schooling. With regard to its previous comments, concerning making education compulsory up to the minimum age of admission to employment, the Committee notes the Government's indication that it is currently engaged in drafting legislation and conducting public discussions on making primary education compulsory. The Committee also notes the Government's information that the Education Policy provides for free primary education and that the Government is committed to achieving universal and quality primary education for all school age children through various programmes, including the school feeding programme, provision of uniform and other educational materials for children, mobile schooling for children from pastoralist areas, and the expansion of school facilities and advocacy works. ***Recalling that compulsory education is one of the most effective means of combating child labour, the Committee expresses the firm hope that the Government will take the necessary measures to make education compulsory up to the minimum age for admission to employment or work in accordance with Article 2(3) of the Convention.***

Article 3. Determination of hazardous work. The Committee notes that the Government has not provided any information as requested by the Committee in its previous comments but indicates that the data will be collected from the regional and city labour inspection offices.

The Committee notes the Government's information that a new Directive No. 813/2021, restating the hazardous activities prohibited to young workers, has been issued in order to protect young workers from serious occupational injuries or damage to their health in the course of their work and that the

federal and regional labour inspection service is currently enforcing this directive across the country. ***The Committee requests the Government to provide a copy of Directive No. 813 of 2021 and to provide information on its application in practice, indicating the number and nature of violations detected and penalties imposed.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

Previous comment

Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and penalties. Sale and trafficking of children. In reply to its previous comments concerning the application in practice of the Anti-trafficking Proclamation No.909/2015, the Committee notes the Government's indication in its report that Proclamation No. 909 of 2015 has been repealed and replaced by a new Prevention and Suppression of Trafficking in Persons and Smuggling of Persons Proclamation (Prevention and Suppression of TIP-SOP Proclamation No. 1178/2020). The Committee notes with **interest** the Government's statement that this new Proclamation is more efficient in crime prevention, holding perpetrators accountable, and contains provisions for protecting and rehabilitating victims. Moreover, it provides for undertaking activities that reach segments of society vulnerable to the crimes taking into consideration the age, sex and special needs of victims through facilitating international cooperation.

The Committee notes that section 4 of the Prevention and Suppression of TIP-SOP Proclamation No. 1178/ 2020 makes it an aggravating circumstance if the victim of any of the crimes under this Act is a child and provides for a penalty of rigorous imprisonment from ten to twenty years and a fine from 30,000 to 100,000 Birr (approximately US\$571 to US\$1,905). Moreover, smuggling of a child is punishable with rigorous imprisonment from seven to fifteen years and fine from 20,000 to 100,000 Birr. Section 33 of the Prevention and Suppression of TIP-SOP Proclamation No. 1178/2020 provides for the establishment of the National Council to coordinate the prevention and control of the crimes related to trafficking, smuggling and unlawful sending of persons abroad for work. However, the Government indicates that statistical information on the number and nature of offences, investigations, prosecutions and penal sanctions related to trafficking of children is impossible to find due to weak and irregular reporting system at all levels. ***The Committee urges the Government to strengthen its efforts to ensure the effective application of the Prevention and Suppression of TIP-SOP Proclamation No. 1178 of 2020 and to take the necessary measures to ensure that thorough investigations and prosecutions of persons who engage in the sale and trafficking of children are carried out and that effective and dissuasive penalties are imposed in practice. It requests the Government to take the necessary measures to collect data, including statistics on the number and nature of offences reported, investigations, prosecutions, convictions and penal sanctions imposed with regard to the trafficking of children under 18 years and to provide information in this regard.***

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Ensuring access to free basic education. The Committee notes that according to the UNICEF Ethiopia Humanitarian Situation report of June 2022, over 2.9 million children (17 per cent of the school age children) across Ethiopia remain out of school, including 2.53 million due to conflict and 401,000 due to drought. Almost 50 per cent of those out of school children are entering their third year without any access to learning, heightening the risk of a lost generation for children in northern Ethiopia. Based on school damage assessments in May, more than 8,660 schools across Ethiopia are fully or partially damaged, 70 per cent of which were in Afar, Amhara and Tigray due to the North Ethiopia conflict. The Committee also notes that the UNESCO estimates for 2020 indicates a net enrolment rate of 87.2 per cent at the primary level. ***While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take the necessary measures to improve the operation of the education system and to facilitate access to free basic education to all children, particularly in the zones affected by the conflict. It requests the Government to provide***

information on the concrete measures taken in this regard and the results achieved, in particular concerning the increase in school enrolment and completion rates and reduction in the school drop-out rates in primary and secondary education.

Clauses (a) and (b). Prevention and direct assistance for the rehabilitation and social integration. Trafficking and commercial sexual exploitation of children. The Committee notes that sections 23 and 24 of the Prevention and Suppression of TIP-SOP Proclamation No. 1178/2020 provides for the protection, rehabilitation and compensation of victims of trafficking. The Government indicates that the Ministry of Women and Social Affairs conducted awareness raising and advocacy programmes on prevention of trafficking to over 5.6 million people; conducted anti-trafficking community conversation sessions in 20,732 villages; and established 1,617 school anti-trafficking clubs to advocate and conduct peer education programmes.

The Committee notes that the Committee on the Elimination of Discrimination Against Women (CEDAW), in its concluding observations of 2019, expressed concern at the limited data on trafficking in women and girls and at the lack of data on the extent of exploitation of prostitution of women and girls in the State party; and at the lack of information on programmes implemented for the benefit and protection of women and girls who are victims of trafficking and exploitation of prostitution (CEDAW/C/ETH/CO/8, paragraph 25). **The Committee urges the Government to take effective and time-bound measures to prevent children from becoming victims of trafficking and prostitution and to remove child victims from these worst forms of child labour and ensure their rehabilitation and social integration. It requests the Government to provide information on the protection and rehabilitation measures taken for child victims of trafficking pursuant to sections 23 and 24 of the Prevention and Suppression of TIP-SOP Proclamation No. 1178/2020.**

Clause (d). Identifying and reaching out to children at special risk. 1. Child orphans of HIV/AIDS and other vulnerable children (OVCs). Following its previous comments, the Committee notes the Government's information that various guidelines to identify and reach out to children at special risk, in particular orphans and OVC were developed including: (i) Case Management guidelines; (ii) the Service Linkage and Referral guideline; (iii) the Urban Destitute Implementation Manual; (iv) the Service Provision Standard Guideline; and (v) the Care and Support Guideline for AIDS orphans. The Government indicates that the Federal HIV/AIDS Prevention and Control Office is the focal institution to nationally coordinate and guide the social protection support based on the implementation guidelines, especially to children orphaned by HIV/AIDS. Support for HIV/AIDS orphans are regularly assisted by funds to combat HIV, in addition to engaging families on income generating activities. It notes that the Ministry of Women and Social Affairs, in cooperation with relevant NGOs, civil society, religious and community-based organizations developed and implemented OVC care and support programmes in 2020–21 for an estimated 1,193,448 beneficiaries including children under difficult circumstances. During this period, 20,121 vulnerable children received institutional services and 3,883 children were integrated with their families. The Committee observes that, according to estimates made by UNAIDS in 2021, approximately 280,000 children aged 0 to 17 years are orphans due to HIV/AIDS in Ethiopia. **Recalling that HIV/AIDS orphans and OVCs are at an increased risk of being engaged in the worst forms of child labour, the Committee urges the Government to continue its efforts to ensure that HIV/AIDS orphans and OVCs are protected from the worst forms of child labour. The Committee requests the Government to provide information on the specific measures taken in this respect and on the results achieved.**

Clause (e). Special situation of girls. Domestic work. The Committee previously noted that there were approximately 6,500–7,500 child domestic workers in Addis Ababa.

The Committee notes the Government's information that some preliminary studies conducted on domestic work revealed that child domestic workers are subjected to exploitation, with long working hours for minimal pay and modest shelter and food as well as vulnerability to physical and sexual abuse.

Recognizing the situation of child domestic workers in major urban centres, the Confederation of Ethiopia Trade Unions (CETU) in collaboration with NGO's initiated a campaign to combat exploitative and abusive child domestic work and to ratify Convention No. 189 on domestic work. The Government also refers to section 3(c) of the Labour Proclamation No.1156 of 2019 which states that the Council of Ministers shall issue regulations governing conditions of work applicable to the domestic service. ***The Committee requests the Government to indicate whether any regulations on conditions of work for the domestic service have been issued pursuant to section 3(c) of the Labour Proclamation No. 1156/2019 and, if so, whether such regulations have addressed or contemplate addressing child domestic workers. It requests the Government to take immediate and effective measures to protect child domestic workers, particularly girls, from engaging in exploitative domestic work, and to report on the efforts of the labour inspectorate in this regard. The Committee requests the Government to provide information on the effective and time-bound measures taken in this regard and on the results achieved.***

The Committee is raising other matters in a request addressed directly to the Government.

Gabon

Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124) (ratification: 1968)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2(1) of the Convention. Medical examination of persons under 21 years of age prior to underground work in mines. In its previous comments, the Committee noted that under section 207 of the Labour Code, the initial medical examination prior to recruitment was only compulsory for children under 18 years of age and not, as envisaged by the Convention, for persons under 21 years of age. The Government gave an undertaking to take into account the requirement to make the initial medical examination prior to recruitment compulsory for workers under 21 years of age in the framework of the adoption of a draft Decree to update Order No. 3773 of 25 March 1954 on the organization and operation of medical services. It also noted that under section 178 of the Labour Code, as amended by Ordinance No. 018/PR/2010 of 25 February 2010, labour inspectors may require a medical examination for fitness for employment of children and young persons up to the age of 18 years and up to the age of 21 years for types of work which involve high health risks. The Committee nevertheless observed that medical examination prior to recruitment for young persons of under 21 years of age is still not compulsory. The Committee notes the Government's indication in its report that section 178 of the Labour Code was amended by Ordinance No. 018/PR/2010 of 25 February 2010. Nevertheless, the Committee notes that the new section 178, which authorizes labour inspectors to require a medical examination until 18 years of age, or until 21 years for types of work that involve high health risks, still does not make medical examinations prior to recruitment compulsory. The Committee recalls that *Article 2(1)* of the Convention provides that a thorough medical examination for fitness of employment shall be required for work underground in mines for persons under 21 years of age. ***The Committee therefore requests the Government to take the necessary measures to give full effect to this provision of the Convention, and to provide information on any new developments in this regard.***

Article 3(2). X-ray film of the lungs. The Committee has been emphasizing for a number of years that the national legislation in Gabon does not contain any provision requiring an X-ray film of the lungs on the occasion of the initial medical examination and it expressed the hope that the Government would envisage the inclusion in the national legislation of a provision to this effect. The Committee has subsequently noted that the draft Decree to update Order No. 3773 of 25 March 1954 on the organization and operation of medical services would take into account the requirement of an X-ray film of the lungs during the initial medical examination and also, if considered necessary from a medical point of view, during re-examinations. The Committee notes the Government's indication that there have been no further developments, but that it reiterates its commitment to taking measures to this effect. ***Recalling that it has been raising this matter for nearly 30 years, the Committee urges the Government to take the necessary measures to ensure that an***

X-ray film of the lungs is required during the initial medical examination of any person under 21 years of age with a view to their employment or work in underground mines and, if considered necessary from a medical point of view, during subsequent re-examinations. In this respect, it expresses the firm hope that the draft Decree will be adopted in the near future and requests the Government to continue providing information in this respect.

Article 4(4) and (5). Records of persons who are employed or work underground. In its previous comments, the Committee noted General Order No. 3018 of 29 September 1953, the provisions of which do not meet all the requirements of Article 4(4) and (5) of the Convention. However, the Government indicated that it would introduce provisions in conformity with Article 4 of the Convention when the time came to update General Order No. 3018. The Committee notes that, according to the Government's report, General Order No. 3018 has not yet been amended, but that the Government is working to bring its provisions into conformity with the Convention. ***The Committee therefore requests the Government to take the necessary measures in the near future to bring General Order No. 3018 of 29 September 1953 into conformity with the Convention.***

Article 5. General policy for the implementation of the Convention. The Committee previously noted that section 251 of the Labour Code provides for the establishment of an advisory committee on occupational safety and health, the composition and operation of which are determined by Order No. 000808/MTRHFP/SG/IGHMT of the Minister of Labour. In this respect, the Committee noted that the technical advisory committee on occupational safety and health had not yet been established due to a problem relating to the representativity of trade unions.

The Committee notes the Government's indication that the problem relating to the representativity of trade unions described in the previous report persists, due to the absence of elections, and that it has therefore not yet been possible in practice to establish the technical advisory committee. ***The Committee requests the Government to continue providing information on any progress made in this respect.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Minimum Age Convention, 1973 (No. 138) (ratification: 2010)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2(1) of the Convention. Scope of application and minimum age for admission to employment or work. In its previous comments, the Committee noted that, under section 177 of the Labour Code of Gabon of 1994 as amended by Ordinance No. 018/PR/2010 of 25 February 2010, children may not be employed in any enterprise before the age of 16 years. The Committee also observed that, under the terms of section 1, the Labour Code only governs the employment relationship between workers and employers, and between employers or their representatives and apprentices and trainees placed under their authority. It therefore appears that the Labour Code and the provisions concerning the minimum age for admission to employment or work do not apply to work performed outside a formal employment relationship, as in the case of children working on their own account or those working in the informal economy.

The Committee notes the Government's indication in its report that the Committee's comments will be taken into account in the draft revision of the Labour Code. It also notes the Government's indications that it plans to extend the social coverage of the National Health Insurance and Social Guarantee Fund (CNAMGS) to children working in the informal economy. It notes that, under section 2 of Decree No. 0651/PR/MTEPS of 13 April 2011 establishing individual exceptions to the minimum age for admission to employment in Gabon, individual exceptions to the minimum age for admission to employment, which is fixed at 16 years, can be granted for work taking place in establishments where only family members are employed under the authority of the father, mother or guardian. The Committee reminds the Government that the Convention applies to all sectors of economic activity and covers all forms of employment and work, whether or not these are governed by a contractual employment relationship, including work in a family enterprise. ***The Committee expresses the firm hope that the draft amendments to the Labour Code will be adopted in the very near future, so that all children under 16 years of age who engage in economic activities outside a formal employment relationship, particularly children who work in the informal economy, including in a family enterprise, benefit from the protection afforded by the Convention. The Committee requests the Government to provide information on progress made in this respect and to send a copy of the***

draft amendments to the Labour Code. It also requests the Government to provide information on progress regarding social coverage through the CNAMGS of children working in the informal economy.

Article 3(1) and (2). Minimum age for admission to hazardous types of work and determination of such types of work. The Committee noted previously that, under section 177 of the Labour Code of 1994 as amended by Ordinance No. 018/PR/2010 of 25 February 2010, children under 18 years of age may not be employed in types of work considered to constitute the worst forms of child labour, particularly work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of young persons. The Committee also noted that the list of types of work and the categories of enterprises prohibited for young persons, and the age limit to which this prohibition applies, is determined by Decree No. 275 of 5 November 1962, but that the list of hazardous types of work was being revised.

The Committee notes with **satisfaction** the adoption of Decree No. 0023/PR/MEEDD of 16 January 2013 determining the nature of the worst forms of labour and the categories of enterprises prohibited for children under 18 years of age, pursuant to section 177 of the Labour Code. Section 2 of the Decree prohibits the employment of children under 18 years of age in certain types of work such as: work in abattoirs and tanneries; extraction of minerals, waste, materials and debris in mines and quarries; driving of motor vehicles and mechanical equipment; and work in construction, except for finishing work that does not require the use of scaffolding. **The Committee requests the Government to provide information on the application in practice of Decree No. 0023/PR/MEEDD, including the number and nature of infringements detected relating to the performance of hazardous work which is prohibited for children under 18 years of age, and the penalties imposed.**

Article 9(1). Penalties and labour inspection. In its previous comments, the Committee noted that section 195 of the Labour Code provides that any person who violates the provisions of section 177, concerning the minimum age for admission to employment or work, shall be liable to a fine and/or imprisonment of two to six months. Any person violating section 177(3), concerning hazardous work, shall be liable to a fine and five years' imprisonment without the possibility of a suspended sentence. Each of these penalties is doubled for repeat offences. The Committee also noted that, under section 235 of the Labour Code, labour inspectors are responsible for reporting violations of the laws and regulations relating to labour, employment, occupational safety and health, and social security. The Committee also noted with concern the Government's indication that no penalties had yet been imposed in this regard, even though the Committee on the Rights of the Child, in its concluding observations of 2016, had highlighted the large number of children working in sand quarries and *gargotes* (low-quality restaurants) and on taxis and buses. It further noted, in its comments on the Worst Forms of Child Labour Convention, 1999 (No. 182), that the labour inspectorate had not recorded any offences involving child labour.

The Committee notes the Government's indication that the labour inspection services do not have the necessary resources to investigate child labour properly but that in 2017, with support from partners including UNICEF, a pilot phase of capacity-building for inspectors was launched, involving training for labour inspectors relating to the exploitation of child labour. The Government explains that the pilot phase of capacity-building for labour inspectors is due to be extended to the whole country to enable effective implementation of the provisions of the Convention. However, the Committee notes that the Government still provides no details of any convictions of offenders under section 177 of the Labour Code. **The Committee requests the Government to renew its capacity-building efforts for labour inspectors in order to ensure that the regulations providing for penalties for violations of section 177 of the Labour Code are implemented effectively. In this regard, it requests the Government to report on the results of this capacity-building in terms of the numbers of labour inspectors and of inspections with a focus on child labour, including hazardous work. It also requests the Government to provide information on the application of these penalties in practice, indicating the number and nature of violations reported and penalties imposed and, where possible, to provide extracts from labour inspectors' reports.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 3(a) and 7(1) of the Convention. Worst forms of child labour. Sale and trafficking of children. Penalties. In its previous comments, the Committee noted that a number of children, particularly girls, are victims of internal and cross-border trafficking for the purposes of work as domestic servants or in the country's markets. Children from Benin, Burkina Faso, Cameroon, Guinea, Niger, Nigeria and Togo are victims of trafficking to Gabon. The Committee emphasized that, despite the conformity of the national legislation on the sale and trafficking of children (in particular Act No. 09/2004) with the Convention, and even though several institutions have an operational mandate in this field, the legislation is still not enforced and coordination is weak. Moreover, the Committee noted with concern that, even though prosecutions had been initiated against suspected traffickers of children, no ruling had yet been handed down, even though the United Nations Committee on the Rights of the Child (CRC) had stated that 700 child victims of trafficking had been identified and repatriated to their countries of origin. The Committee therefore asked the Government to take steps to ensure the in-depth investigation and robust prosecution of persons who engage in the sale and trafficking of children under 18 years of age.

The Committee notes the Government's statement in its report that Act No. 09/2004 concerning the prevention and combating of trafficking of children has been revised following the national symposium on combating the trafficking of children held in June 2016. The Committee also notes the Government's indications that any persons violating the laws and regulations relating to the sale and trafficking of children are liable to severe punishment under the law in the form of fines or imprisonment. The Government indicates that prosecutions have been initiated against eight persons in cases involving the forced labour of children. It also states that in 2016 officers from the immigration control department were given training in identification and investigation methods in trafficking cases. The Committee also notes the Government's indication, in its report relating to the Minimum Age Convention, 1973 (No. 138), that deadlines for the courts to hand down judgments (except for administrative tribunal decisions) are unknown and it recognizes the ineffectiveness of the Gabonese justice system. It indicates that judicial prosecutions are limited, owing to a lack of financial resources at the High Court of Justice, which deals with trafficking cases but cannot hold regular sessions. The Government further indicates that data on the repression of trafficking is limited, in particular because of a lack of communication between ministries. The Government also states that reports have indicated that corruption and complicity of public officials in trafficking cases remain a source of serious concern. It indicates that judges are at risk of being corrupted by suspected traffickers and that they often delay or abandon cases which have been opened against traffickers.

The Committee further notes that, according to the UNICEF annual report for 2017, the trafficking of children is constantly increasing because of the lack of effective and comprehensive enforcement of the laws against the trafficking and exploitation of children. The Committee notes that the August 2017 report of the United Nations High Commissioner for Human Rights (UNHCHR), in the context of the universal periodic review, emphasizes that the Special Rapporteur on trafficking expressed concern at the trafficking of women and girls for sexual exploitation and prostitution (A/HRC/WG.6/28/GAB/2, paragraph 50). The Committee is therefore bound to note with **deep concern** the lack of convictions handed down for traffickers of children, which perpetuates the situation of impunity that appears to exist in the country. **Recalling that penalties are only effective if they are actually enforced, the Committee urges the Government to take the necessary steps without delay to ensure the thorough investigation and robust prosecution of perpetrators of the sale and trafficking of children, including government officials suspected of complicity and corruption, and to ensure that penalties constituting an adequate deterrent are imposed on them. Further, recalling that it is the responsibility of the State to provide the judicial system with the means to function, as well as to ensure effective communication between the ministries, the Committee also requests the Government to take the necessary steps to facilitate communication between ministries and to strengthen the capacities of the High Court of Justice, including its ability to hand down judgments within a reasonable time. The Committee requests the Government to continue providing information on the application of provisions relating to this worst form of child labour, including statistics on the number of convictions handed down and the criminal penalties imposed.**

Clauses (b) and (c). Use, procuring or offering of a child for the production of pornography or for pornographic performances, or for illicit activities. The Committee previously urged the Government to take the necessary steps to ensure that the use, procuring or offering of a child under 18 years of age for the production of pornography or for pornographic performances, or for illicit activities, including the production and trafficking of drugs, are explicitly prohibited in the national legislation.

The Committee notes with **satisfaction** that Decree No. 0023/PR/MEEDD of 16 January 2013, determining the nature of the worst forms of labour and the categories of enterprises prohibited for children under 18 years of age, defines the “use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances” and “for illicit activities including the production and trafficking of drugs as defined by the relevant international conventions” as the worst forms of child labour. It notes that this Decree was adopted pursuant to section 177 of the Labour Code. The Committee observes that section 195 of the Labour Code provides that any person who violates the provisions of section 177(3), concerning the worst forms of child labour, which refers to the above-mentioned Decree, shall be liable to a fine of 5 million CFA francs (US\$8,429) and five years’ imprisonment without the possibility of a suspended sentence. Each of these penalties is doubled for repeat offences. **The Committee requests the Government to provide information on the application in practice of this new Decree, including the number and nature of violations detected in relation to the use, procuring or offering of a child for the production of pornography, for pornographic performances or for illicit activities, including the production and trafficking of drugs.**

Articles 5 and 6. Monitoring mechanisms and programmes of action. 1. Council to Prevent and Combat the Trafficking of Children and the Monitoring Committee. The Committee previously noted that the Council to Prevent and Combat the Trafficking of Children is an administrative authority attached to the Ministry of Human Rights. In practice, monitoring of the phenomenon of trafficking is ensured by a monitoring committee and several watchdog committees, which are responsible for monitoring and combating the trafficking of children for exploitation within the country. The Committee asked the Government to intensify its efforts to strengthen the capacity of the watchdog committees and their coordination with the Council to Prevent and Combat the Trafficking of Children and the monitoring committee with a view to ensuring the enforcement of the national legislation against trafficking in children.

The Committee notes the Government’s announcement that the Council to Prevent and Combat the Trafficking of Children became operational in December 2017. The Government indicates that the watchdog committees have conducted information campaigns on the possibility of assistance for victims and on the existence of penalties for traffickers of children, aimed at having a deterrent effect. The Government also highlights the presence of an Inter-Ministerial Committee to Combat the Trafficking of Children, and also the formulation and adoption of a “Plan of action against the trafficking of children 2016–17”. The Committee notes that, according to information from the ILO office in Yaoundé, the above-mentioned action plan for 2016–17 has not been renewed. **While noting the measures taken by the Government, the Committee requests the Government to continue its efforts to ensure that the watchdog committees have the capacity to detect situations where children under 18 years of age are victims of trafficking. It requests the Government to provide information on the number of child victims of trafficking who have been identified, and on the results of the “Plan of action against the trafficking of children 2016–17”, including the activities undertaken. The Committee also requests the Government to provide information on the recent activities of the Council to Prevent and Combat the Trafficking of Children and on the role of the Inter-Ministerial Committee to Combat the Trafficking of Children.**

2. Labour inspection. With regard to labour inspection, the Committee refers to its detailed comments on the Minimum Age Convention, 1973 (No. 138).

Article 7(2) of the Convention. Effective and time-bound measures. Clause (b). Removing children from the worst forms of child labour and ensuring their rehabilitation and social integration. Reception centres and medical and social assistance for child victims of trafficking. The Committee previously noted that the country has four reception centres where children removed from a situation of exploitation receive an initial medical examination a few days after their placement in a centre. In addition to their rehabilitation and social integration, children are supervised by specialist teachers and psychologists, and benefit from social and educational activity programmes and administrative and legal support. The Committee also noted that during their stay in the centres school-age children removed from trafficking are enrolled free of charge in state schools, while those who are no longer of school age are enrolled in literacy centres.

The Committee notes the Government's indication that in 2015 a total of 15 child victims of trafficking for forced labour were identified and directed to the social services. The Government explains that a number of structures, including NGOs, religious authorities and UNICEF, provide support for the operations of the reception centres. The Committee notes that, according to the UNICEF annual report for 2017, a number of child protection structures, including social workers and civil society organizations, have received training, including with regard to providing care for victims of abuse, violence, and exploitation. It also observes that the Government, in its report to the United Nations Human Rights Council in August 2017 in the context of the Universal Periodic Review, indicates that in 2014 and 2015 the monitoring committee recorded more than 750 children who had been removed from trafficking circuits and reintegrated locally or repatriated to their countries of origin (Benin, Togo and Nigeria) (A/HRC/WG.6/28/GAB/1, paragraph 42). ***While noting the large number of children removed from trafficking circuits, the Committee recalls the importance of measures for the rehabilitation and social integration of child victims of trafficking and requests the Government to take the necessary steps to ensure that all children withdrawn from trafficking are effectively rehabilitated and integrated in society. The Committee also requests the Government to provide information on the number of children under 18 years of age who have actually been removed from this worst form of child labour and placed in reception centres.***

Article 8. International cooperation. The Committee noted previously that the Government had signed the Multilateral Regional Cooperation Agreement against the trafficking of persons (especially women and children) in West and Central Africa in July 2006 and that a bilateral agreement against trafficking in children was being negotiated with Benin. It noted that, according to the Special Rapporteur, with a maritime border of over 800 kilometres and a porous frontier with three countries, Gabon was in need of sound cooperation with its neighbours to combat the phenomenon of trafficking. However, only one bilateral agreement with Benin had been concluded.

The Committee notes the Government's indications that bilateral cooperation between Gabon and Togo relating to the prevention and combating of child migration for cross-border trafficking and economic exploitation has been strengthened and has enabled the development of a draft bilateral agreement for combating the cross-border trafficking of children and also the repatriation and reintegration of 30 Togolese girls who were victims of trafficking to Gabon. The Government also indicates that it has cooperated with the Economic Community of Central African States and with Senegal, as part of action against the trafficking of children. The Committee notes that, according to the August 2017 report of the UNHCHR, the Committee on the Rights of the Child (CRC) expressed concern at the lack of bilateral agreements between Gabon and countries of origin of child victims of trafficking, in particular Mali, Nigeria and Togo (A/HRC/WG.6/28/GAB/2, paragraph 29). ***The Committee requests the Government to continue its efforts to ensure that bilateral agreements on trafficking in persons are concluded with neighbouring countries in the very near future, particularly with a view to boosting the numbers of border police officers. It requests the Government to provide information on progress made in this respect.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Ghana

Minimum Age Convention, 1973 (No. 138) (ratification: 2011)

Previous comment

Article 1 of the Convention. National policy and application of the Convention in practice. Following its previous comments, the Committee notes the Government's information in its report that it has implemented several concrete measures within the framework of the National Plan of Action – Phase II on Elimination of the Worst Forms of Child Labour 2017–21 (NPA2), including: (i) sensitization and awareness-raising (over 2 million people reached in 2021); (ii) capacity-building of various stakeholders, including Community Child Protection Committees (CCPCs), law enforcement agencies, parents, teachers and children (over 150,000 beneficiaries in 2021); and (iii) measures aimed at improving school

enrolment and retention. The review of the NPA2, which has elapsed, has not yet been completed, and there are discussions on the possibility of either extending its implementation or elaborating a new plan of action. ***The Committee requests the Government to take measures to ensure that the NPA2 is either extended or that a new plan of action is elaborated. It requests the Government to provide information on the progress achieved and on the impact of the new or revised plan of action on the progressive elimination of child labour. Finally, the Committee once again requests the Government to continue to provide information on the application of the Convention in practice, in particular up-to-date statistical data on the number of children and young persons below the minimum age of 15 who are engaged in child labour, and information on the nature, scope and trends of their work. To the extent possible, this information should be disaggregated by age and gender.***

Article 3(1) and (2). *Minimum age for admission to hazardous work and determination of hazardous work. With regard to the determination and adoption of the list of hazardous types of work prohibited to children under the age of 18 years, the Committee refers to its detailed comments under the Worst Forms of Child Labour Convention, 1999 (No. 182).*

Article 7(3). *Determination of light work activities.* The Committee notes the Government's information that the list of light work activities permitted to young persons between the ages of 13 and 15 is included in the new Hazardous Activities Framework (HAF), which will be submitted as a legislative instrument to Parliament for consideration. ***The Committee expresses the firm hope that the list of types of light work activities and the conditions of light work permitted for young persons between the ages of 13 and 15, as required by Article 7(3) of the Convention, are duly integrated into the new HAF, and requests the Government to take the necessary measures to ensure that the HAF is adopted into law in the near future. It requests the Government to provide information on the progress made in this regard, as well as a copy of the new HAF, once adopted.***

Labour inspectorate. Following its previous comments, the Committee notes that the International Trade Unions Confederation, in a communication dated 1 September 2022 and submitted to the Committee for examination of Ghana's application of the Worst Forms of Child Labour Convention, 1999 (No. 182), observes that the labour inspection continues to be underfinanced and insufficiently manned, and that inspectors do not have adequate training and capacity to eliminate child labour issues.

In this regard, the Committee takes note of the Government's information regarding the measures taken to reinforce the Labour Inspectorate. In particular, the Committee notes that the functioning and capacity of the Labour Inspectorate are strengthened through the Ghana Employment and Social Protection (GESP) project, in the framework of which the resources of the Labour Inspectorate were strengthened and labour inspectors were trained in various skills required to improve their operations and reporting, including on how to identify child labourers and refer them to the Department of Social Welfare for follow-up action. The Government indicates that 75 labour inspectors received additional training on inspections in the informal sector leading to 520 inspections, that a data collection exercise on these inspections began this year, and that the statistics collected will be communicated to the Committee in subsequent reports. Furthermore, the Committee notes the Government's information, under Convention No. 182, according to which the Trade for Decent Work (T4DW) project of the European Union, supported the training of new labour officers and representatives of the office of the Attorney-General on the prosecution of child labour cases and other violations at the workplace. ***The Committee strongly encourages the Government to continue strengthening the capacity and functioning of the Labour Inspectorate, in order to ensure the effective supervision of the provisions giving effect to the Convention and to expand the reach of the labour inspection services to the informal economy. It requests the Government to provide information on the measures taken in this regard and on the results achieved, including the data collected through the labour inspections that have been conducted in the informal sector and the number of prosecutions of child labour cases facilitated through the support of the T4DW project.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Previous comment

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2022, as well as the Government's report. It notes that the ILO Technical Advisory Mission (TAM), requested by the Committee in its previous comments, took place in April 2022.

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery and practices similar to slavery. Sale and trafficking of children. Following its previous comments, the Committee notes the ITUC's observation that Ghana continues to be a source, transit and destination country for trafficking of persons, in particular the trafficking of boys and girls for labour and sexual exploitation, and that children are trafficked for exploitation in domestic servitude, the cocoa industry and exploited in harmful practices such as the *trokosi* system of servitude and debt bondage. The ITUC observes that the number of investigations, prosecutions and convictions for cases of trafficking are insufficient in comparison to the scale and persistence of the worst forms of child labour in the country. The Committee further notes that, according to the report of the ILO TAM, the Worker representatives of the General Agricultural Workers Union indicated that one of its key conclusions of a mapping that was undertaken on issues of forced labour and trafficking was the low level of prosecutions in comparison with the number of arrests. Several representatives of the Government, Workers and Employers indicated that this was partly due to the inability to obtain sufficient evidence, but also to the level of capacity of law enforcement officials to address the issue of trafficking even when it is brought to their attention.

The Committee notes the Government's information, in its report, that from October 2021 to July 2022, 22 prosecutions were initiated and a total of 10 convictions involving 16 offenders were handed down. The Government provides information on the penalties applied, including several prison sentences, hard labour, and fines. While taking due note of this information, the Committee observes that the numbers appear to remain low in light of the prevalence of the issue.

In this regard, the Committee takes note of the Government's information regarding the multiple measures taken to strengthen the capacity of the law enforcement officials, including the Ghana Police Service, the Anti-Human Trafficking Unit (AHTU), the Anti-Human Smuggling and Trafficking in Persons Unit of the Ghana Immigration Service (AHSTIPU), and prosecutors and judges. In addition, the Ghana Police Service has put in place several measures to further intensify its efforts in the fight against trafficking in persons, including the training of border officers on the identification of victims of trafficking; the establishment of anti-trafficking desk offices at the regional and district offices to assist in identifying child labour and child trafficking cases; and the confiscation of the properties of perpetrators and their prosecution in civil proceedings, alongside criminal proceedings. Furthermore, the Committee notes that one of the four main axes of the new National Plan of Action for the Elimination of Trafficking in Ghana (NPA) 2022–26, is to improve the effectiveness of prosecution efforts for trafficking/strengthen the legal and regulatory framework to combat trafficking, and that many actions are planned in this regard. ***The Committee therefore strongly encourages the Government to pursue its efforts to strengthen the capacity of the law enforcement officials, including in the framework of the NPA 2022–26, so as to ensure that thorough investigations and prosecutions of persons who engage in the sale and trafficking of children are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to continue to provide information on the measures taken in this regard as well as specific information on the number of prosecutions, convictions and specific penalties applied on persons found guilty of trafficking children under 18 years of age.***

Clause (d) and Article 7(2)(a) and (b). Hazardous work in cocoa farming and preventing children from being engaged in and removing them from such hazardous work. Following its previous comments, the

Committee takes note of the ITUC's observations that an estimated 10 per cent of children working on cocoa farms are engaged in hazardous activities and that the incidence of child employment in cocoa appears to be rising faster than elsewhere. Over 200,000 children in the principal cocoa-growing regions are exposed to hazardous work and suffering serious injuries. Considering the importance of the cocoa industry in Ghana (about 40 per cent of Ghana's total earnings), child labour in its worst forms in Ghana also has implications for Ghana's cocoa supply chains in the global economy.

The Committee notes that, according to both the report of the ILO TAM and the Government's report, various measures were taken to prevent children under 18 years of age from engaging in hazardous work in the cocoa sector. In particular, the Committee notes: (i) the continuous sensitization of community members, including farmers and the general public, on child labour and its consequences; (ii) the implementation of several measures aiming to strengthen local level structures to support the elimination of child labour in the cocoa sector, through capacity-building of stakeholders including Community Child Protection Committees (CCPCs); and (iii) the public-private partnership for the elimination of child labour in cocoa growing areas called "Children first in cocoa" aiming to improve the lives of children living in the cocoa-growing regions of Ghana by 2025. Furthermore, the Government indicates that, under the Trade for Decent Work Project (T4DW Project) of the European Union, the CCPC members of five cocoa growing communities in the Eastern and Ashanti regions were trained on the basic concepts of child labour and child protection, identification, withdrawal and rehabilitation of victims. ***The Committee therefore strongly encourages the Government to continue its efforts to prevent children under 18 years of age from being engaged in hazardous types of work in this sector, as well as to remove them and rehabilitate them. It requests the Government to continue to provide information on the measures taken in this regard, as well as on the number of child victims of hazardous types of work who are removed from such work and rehabilitated as a result.***

Article 4(1) and (3). Determination and revision of the list of hazardous types of work. Following its previous comments, the Committee notes that the Government representatives indicated, during the ILO TAM, that both the Hazardous Activities Framework for the cocoa sector, developed in 2008, and the General Hazardous Activities Framework, covering 17 other occupations and developed in 2012, have been reviewed, validated, and merged into one Hazardous Activities Framework (HAF). In this regard, the Committee notes both the information contained in the report of the ILO TAM and the Government's information on the series of steps necessary to ensure the adoption of the HAF into a legislative instrument, including sending it to the Attorney-General for review and instructions, submitting it to the authorities (Cabinet and Parliament) for approval, and converting it into a decree or regulation pursuant to the revised Children's Act, which is currently before Parliament for adoption. ***The Committee requests the Government to take the necessary measures to ensure that the HAF is adopted in the near future. It requests the Government to continue providing information on the progress made in this regard and to provide a copy of the HAF, once it has been adopted into law.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. 1. Trafficking in the fishing industry and domestic service. Following its previous comments, the Committee notes the ITUC's observation that the Government must ensure that children who are rescued from the worst forms of child labour are rehabilitated and reintegrated into society.

In this regard, the Committee takes note of the information contained in the report of the ILO TAM and of the Government's information regarding the measures taken to combat child trafficking, including for the purpose of the exploitation of their labour in hazardous work in the fishing industries and in domestic servitude, such as the establishment of one-stop shop centres (shelters) for victims of violence, including domestic violence, where there are a number of in-house professionals to help reintegrate victims. The Government indicates that, in 2021, 660 children (149 girls and 511 boys), were rescued from trafficking, including in fishing-related activities. The child victims were provided a range

of support services, which included shelter, food, medical care, psychological support, counselling, legal services, family tracing, COVID testing, and more. The Committee further notes that two of the four main axes of the NPA 2022–26 are to prevent trafficking and protect its victims, through various measures aiming to improve advocacy, develop capacity-building, ensure provision of comprehensive care to victims of trafficking, and enhance family strengthening interventions for rescued victims and their families. ***The Committee strongly encourages the Government to continue its efforts to prevent children from becoming victims of trafficking and to remove child victims from the worst forms of child labour and ensure their rehabilitation and social integration. It also requests the Government to continue providing information on the measures taken in this regard and the results achieved in terms of the number of child victims of trafficking, disaggregated by age and gender, who have been removed and rehabilitated.***

2. *Trokosi* system. Following its previous comments, the Committee notes the ITUC's observation that, while the Government announced that the traditional practice of *trokosi* was proscribed by law and, consequently, there is no official data on it, this harmful practice of servitude and debt bondage is still ongoing and thousands of children are suffering the consequences of it. The ITUC observes that the Government must ensure that, in practice, children are not subjected to it and must put in place measures to monitor the enforcement of the law in practice, to carry out an appropriate statistical evaluation system.

The Committee notes that both the Government and social partners stated, during the ILO TAM, that they were not aware of any cases of *trokosi* being reported. The Government adds, in its report, that the practice of *trokosi* has been outlawed in Ghana, and that there is no official data on this practice in the country. In this regard, the Committee notes the observation of the Worker representatives made to the ILO TAM that visits into the *trokosi* communities should be conducted in order to verify these allegations at the national level. The Government indicates, in the meantime, that it continues to conduct sensitization campaigns in order to prevent this practice from resurfacing. ***The Committee requests the Government to take measures to verify the prevalence of the practice of trokosi in the country, including through the collection of data on this issue. It requests the Government to provide information on the progress made in this regard and the results achieved. It also encourages the Government to continue its sensitization measures and to provide information on their impact on preventing girls under the age of 18 from becoming victims of this practice.***

Application of the Convention in practice. The Committee notes that, according to the mission of the ILO TAM, many of the constituents indicated the need to improve data collection and that the Government should work on the national production of statistics on child labour and its worst forms, considering that the last survey on child labour was conducted in 2003. ***The Committee requests the Government to take the necessary measures to ensure the availability of sufficient data on the worst forms of child labour in the country, particularly as regards child trafficking and hazardous work, and to provide information on the nature, scope, and trends of these worst forms, and on the number of children covered by measures giving effect to the Convention. To the extent possible, this information should be disaggregated by gender and age.***

The Committee is raising other points in a request addressed directly to the Government.

Guatemala

Minimum Age Convention, 1973 (No. 138) (ratification: 1990)

Previous comments: [observation](#) and [direct request](#)

The Committee notes the observations of the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF), forwarded by the Government with its report.

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee notes the information provided in the Government's report on the adoption by the Ministry of Employment and Social Welfare of Ministerial Decision No. 260-2019 of 23 July 2019 approving the procedure for the effective application of ILO Convention No. 138. The Decision provides that the Protection Unit for Young Workers will coordinate action with the General Labour Inspectorate to monitor admission to employment for young persons, as well as regular inspection of the various sectors where there is a possibility of children being engaged in child labour (sections 3 and 5 of the Decision). The Committee also notes that the National Commission for the Prevention and Elimination of Child Labour (CONAPETI) was replaced in 2019 by the Thematic Round Table for the Prevention and Eradication of Child Labour in the Specific Social Development Cabinet, with the participation of the General Labour Inspectorate. The Thematic Round Table has been discussing the establishment of Comprehensive Care Centres for the Prevention and Eradication of Child Labour (CAIPETI), the Child Labour Risk Identification Model (MIRTI) and the development of the Strategy and National Plan for the Prevention and Eradication of Child Labour and Work by Young Persons. The Departmental Committees for the Prevention and Eradication of Child labour (CODEPETIS) will continue to operate. The Committee notes the Government's indications in its report on the Worst Forms of Child Labour Convention, 1999 (No. 182), concerning the findings of the final evaluation of the implementation of the Roadmap to make Guatemala a country free from child labour and its worst forms (2016–20) carried out with representatives of the 21 CODEPETIS. In this regard, it notes that the conclusions of the evaluation emphasize: (i) the lack of institutionalization of the commitments set out in the Roadmap; (ii) the absence of budgetary allocations to the bodies responsible for its implementation; and (iii) the lack of social involvement in its implementation.

The Committee notes the indication in the CACIF's observations that employers are participating actively in the Thematic Round Table on the Prevention and Eradication of Child Labour, as well as the CODEPETIS, and are committed to undertaking awareness-raising activities in enterprises. It also reports various enterprise initiatives, particularly in the agricultural sector, to prevent and combat child labour.

While noting all this information, the Committee observes that, according to the findings of the National Survey of Employment and Income 2-2018, available on the official webpage of the National Institute of Statistics, 297,408 boys and 99,071 girls under 14 years of age are engaged in child labour. The Committee also observes that, between January 2018 and May 2022, the labour inspection services detected 136 cases of child labour during inspections in private enterprises in the various departments of the country. ***The Committee hopes that all the measures adopted, including the follow-up to the Roadmap to make Guatemala a country free from child labour and its worst forms will contribute to the progressive elimination of child labour and requests the Government to provide information on this subject.***

With reference to the activities of the labour inspection services to combat child labour, the Committee also requests the Government to investigate the causes of the significant difference between the number of cases of child labour detected in enterprises during inspections and the high number of children under 14 years of age who are engaged in child labour, according to the National Survey of Employment and Income 2018. The Committee considers that this will provide a basis for identifying the measures that could be taken to strengthen the capacities of the labour inspection services to combat child labour, including in the informal economy. The Committee also requests the Government to provide updated statistical data on the nature and extent of child labour.

Article 2(1) and (3). Minimum age for admission to employment. The Committee notes the Government's indication that, on the basis of the recommendations made, the Guatemalan Social Security Institute (IGSS) has prepared new proposed regulations on the manual lifting and transport of loads that would repeal Decision No. 885 of 1990, which provides that boys and girls aged over 13 years may undertake the lifting, carrying or moving of loads appropriate to their age, on condition that such

work is not prejudicial to their development and does not prejudice their health and/or safety. ***The Committee takes due note of this information and trusts that the new regulations on the manual lifting and transport of loads that are adopted will bring the minimum age for that work into line with that established in the Labour Code and the Act on the comprehensive protection of children (14 years).***

Article 3(1). Minimum age for admission to hazardous types of work. With reference to the need to amend section 148(a) of the Labour Code (under the terms of which the minimum age for hazardous types of work shall be determined by the regulations for the respective occupation or the labour inspectorate) in order to set the general minimum age at 18 years for all hazardous types of work, in accordance with Government Decision No. 250-2006, the Government indicates that the legislative initiative to amend the Labour Code in this respect is still awaiting discussion in Congress. ***The Committee trusts that this amendment will be adopted without delay to ensure that the Labour Code sets the minimum age for hazardous types of work at 18 years, in accordance with Decision No. 250-2006.***

Article 6. Minimum age for work done in education or training programmes. ***The Committee trusts that the envisaged revision of the Labour Code will set the minimum age for admission to work done in education and training programmes at 14 years, in accordance with the provisions of the Convention.***

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Previous comment

Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and sanctions. Sale and trafficking of children for sexual exploitation. The Committee notes the Government's indication in its report that under the Public Prosecutor's Strategic Plan for 2019–2023 action has been taken to strengthen the capacities of prosecutors to carry out effective investigation and prosecution of perpetrators of trafficking of children. The inter-institutional technical board for the investigation and prosecution of traffickers from abroad has also been implemented. Police officers have been trained in the protection of children and young persons in a migrant context, especially where the children have been abducted.

The Committee notes that in the period between January 2018 and May 2022, 120 cases of trafficking of persons involving minors under 18 years of age had been registered and were under investigation. During the same period, the Prosecutor charged 93 persons with the trafficking of children under 18 years of age (section 202 ter of the Penal Code, as amended by the Act against Sexual Violence, Exploitation and Trafficking of Persons, 2009), with 14 convictions handed down. The Committee also notes with **interest** the creation of new courts of the first instance and of courts specialized in crimes of trafficking of persons in eight departments with a high incidence of trafficking of persons for commercial sexual exploitation (Suchitepéquez, Retalhuleu, Sololá, Quiché, Totonicapán, Huehuetenango, San Marcos and Quetzaltenango). ***The Committee encourages the Government to continue to take measures to strengthen the capacities of the bodies responsible for enforcing the law with a view to ensuring exhaustive investigations and effective prosecution of perpetrators of trafficking of minors under 18 years of age for sexual exploitation. It requests the Government to provide information on: (1) the functioning of the newly established courts, and (2) the number of investigations, prosecutions and convictions under section 202 ter of the Penal Code regarding trafficking of persons under 18 years of age for the purpose of sexual exploitation.***

Forced child labour. The Committee notes that the Government indicates that during the period between January 2018 and April 2022 a total of 340 minors under 18 years of age were identified in a situation of labour exploitation, begging and forced labour. During the same period, six judgements for the crime of trafficking in children for labour exploitation were handed down, of which two were acquittals. Moreover, the Committee notes that the national police force is carrying out joint operations

with the Ministry of Labour to combat forced child labour in shops and tortilla factories. **The Committee requests the Government to continue to take the necessary measures to identify, prosecute and sentence persons responsible for placing children in a situation of forced labour, including begging, and to provide information in that connection.**

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from these forms of labour and ensuring their rehabilitation and social integration. Sale and trafficking of children and commercial sexual exploitation. The Committee notes the Government's indication that under the National Plan for the Prevention of Crimes of Sexual Violence, Exploitation and Trafficking of Persons and Commercial Sexual Exploitation, activities were carried out to raise the awareness of and inform 270,882 children and young persons. Between January 2018 and May 2022, the Social Welfare Secretariat ran 252 prevention workshops to combat commercial sexual exploitation of minors, with participants from the indigenous communities. The Committee also notes the Government's indication that new bodies have been included in the National Board for the Prevention of and Protection against, Sexual Exploitation of Children and Young Persons in Activities related to Travel and Tourism, established in 2013, including hotel associations and the Guatemalan Airlines Association. To date, 3,692 enterprises have adhered to the Code of Conduct for the prevention of, and protection against, sexual exploitation of children and young persons in travel and tourism. A national campaign "Protecting our greatest treasure" ("Protegiendo Nuestro Mayor Tesoro") against the sexual exploitation of children and young persons in activities connected to tourism has been under way since 2017.

Finally, the Committee notes that between January 2018 and March 2022, 99 minors under the age of 18 years were rescued from commercial sexual exploitation and 13 victims of child pornography. From 2020–21, care and protection were provided in shelters to 150 children and young victims of trafficking in persons. The care included psychological, medical, legal, pedagogical and social support. **The Committee encourages the Government to continue taking the necessary measures to combat the sale and trafficking of children and the commercial sexual exploitation of children, and to withdraw, rehabilitate and reintegrate child victims of the worst forms of child labour. In that connection, it requests the Government to continue to provide information on the direct assistance programmes for child victims of the trafficking of persons and commercial sexual exploitation that have been carried out, and their results, giving details of the number of victims that have been rehabilitated and socially integrated.**

Article 8. International cooperation. Trafficking of children. The Committee notes the updating of the Inter-Institutional Protocol for the Repatriation of Victims of Trafficking, which has two strands: the procedure for the repatriation of Guatemalans, who are or may be victims of trafficking of persons abroad; and the procedure for the repatriation of foreigners, who are or may be victims of trafficking of persons identified in Guatemala. Under the Protocol, 34 child and young person victims of trafficking have been repatriated. **The Committee encourages the Government to continue taking the necessary measures to repatriate child victims of trafficking in persons, whether from Guatemala back to their countries of origin or from abroad back to Guatemala, and requests it to continue providing information on the number of children that have been repatriated. It also requests the Government to provide information on the measures adopted as part of international cooperation to prevent trafficking in persons under the age of 18 years.**

The Committee is raising other matters in a request addressed directly to the Government.

Guinea

Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

Previous comment

Article 2(1) of the Convention. Scope of application and labour inspection. Further to its previous comments, the Committee notes the Government's reference in its report to the adoption of Decree No. D/2022/0265/PRG/SGG regulating the powers and structure of the labour inspectorate. The Government also indicates that the 152 active employees of the labour inspectorate have carried out inspections, mainly focused on urban areas, and that a systematic control mission was conducted in 2022, directed by the labour inspectorate with the participation of the Directorate-General of Labour, the National Directorate of Labour, Employment and Social Legislation, the Department of Occupational Medicine, the National Social Security Fund, and the Guinean Employment Promotion Agency.

In this regard, the Committee notes the Government's indication that proposals are under way regarding the application of the provisions of section 513.5 of the Labour Code with a view to ensuring the permanence of the human, financial and material resources needed by the labour inspectorate to discharge its duties.

The Committee notes that the Government will soon conduct training for labour inspectors and controllers with regard to combating child labour and the worst forms thereof, with technical and financial support from UNICEF. ***The Committee strongly encourages the Government to continue strengthening the capacities of the labour inspectorate so that it can undertake adequate supervision and detection activities with regard to children engaged in child labour. To this end, the Committee once again requests the Government to provide information on the implementation in practice of inspections by labour inspectors with regard to child labour, including information on the number of violations recorded and extracts from labour inspection reports.***

Article 2(3). Age of completion of compulsory schooling. The Committee duly notes the adoption of the new Children's Code 2019. The Committee notes with ***satisfaction*** that section 39 of the new Children's Code 2019 provides that it is compulsory for children to attend school until the age of 16 years, and section 921 prohibits children in compulsory schooling from being employed during school hours. Section 920 also indicates that any person employing a child during school hours shall be liable to a fine of 500,000 to 1 million Guinean francs. ***The Committee encourages the Government to take steps to ensure the practical application of the age of completion of compulsory schooling.***

Article 7(1). Minimum age for admission to light work. The Committee notes that section 932 of the new Children's Code 2019 sets the age for admission to light work at 12 years, as do sections 5–7 of Order No. 2791/MTASE/DNTLS/96 on child labour. In this regard, the Committee once again recalls that under *Article 7(1)* of the Convention, national laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is: (a) not likely to be harmful to their health or development; and (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received. ***The Committee once again urges the Government to take the necessary steps to ensure that the minimum age for admission to light work prescribed in the legislation is 13 years and, accordingly, to make the appropriate amendments to section 932 of the Children's Code and to sections 5–7 of Order No. 2791/MTASE/DNTLS/96 on child labour.***

Article 7(3). Determination of light work, number of hours and conditions in which light work may be undertaken. The Committee previously noted the Government's indication that section 19 of the Bill which will prescribe working hours and conditions of employment or work for light work provides that for children between 11 and 14 years of age, the working time may not exceed eight hours per day, the work must be carried out between 8 a.m. and 9 p.m., and a half-hour uninterrupted rest break must be

provided every four hours. The Committee previously emphasized that any work that may extend to eight hours per day, irrespective of the type of work performed or the conditions in which it is undertaken, does not constitute “light work”.

The Committee observes that section 929 of the Children’s Code 2019 prescribes the maximum loads authorized for young workers under 18 years of age, without indicating working hours and conditions of employment or work for children. It also once again notes the absence of information from the Government regarding the amendment of section 19 of the Bill. ***The Committee requests the Government to ensure that the amendment of section 19 will guarantee that the number of hours and conditions of employment for children working from the age of 13 years meet the requirements of the Convention for light work. The Committee requests the Government to provide information in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

Previous comment

Articles 3(a) and 7(1) of the Convention. Worst forms of child labour, and penalties. Sale and trafficking of children. Further to its previous comments, the Committee notes the Government’s indication in its report that the effective application of the legislation is ensured by the Labour Inspectorate-General, which carries out inspections and controls in workplaces.

The Committee also notes that, according to the statistics available in 2021 from the Office for the Protection of Gender, Childhood and Morality (OPROGEM), six children (two girls and four boys) were identified as victims of trafficking.

However, the Committee notes the absence of information on the number of investigations, prosecutions, convictions and criminal penalties for the trafficking of persons under 18 years of age. ***The Committee once again urges the Government to take the necessary steps to ensure the effective application of the sections of the penal Code relating to the sale and trafficking of children. It once again requests the Government to provide detailed information, indicating in particular the number of child victims of trafficking and also the number and nature of convictions and criminal penalties imposed.***

Articles 3(d) and 4(1) and (3). Determination and revision of the list of hazardous types of work. Further to its previous comments, the Committee notes the indication in the Government’s report that sections 918 and 925 of the new Children’s Code of 2019 refer to types of work that are prohibited for children. The Committee notes with **interest** that these provisions prohibit several types of hazardous work for children under 18 years of age, including: (i) the handling and use of explosive, irritant, corrosive or toxic materials; (ii) work in slaughterhouses or establishments processing animal entrails, work in tanneries, or work involving the continuous surveillance of cattle; (iii) the extraction of mineralized waste, materials and rubble in mines and quarries, and also as part of levelling work; and (iv) all types of work performed at night. The Committee notes that any person employing children in hazardous work is liable to incur the penalties established by sections 918 and 928. ***The Committee requests the Government to ensure the application in practice of sections 918 and 928 of the Children’s Code relating to penalties. It also requests the Government to provide information on the number and nature of violations recorded and the penalties imposed in cases of children performing hazardous work.***

Article 5. Monitoring mechanisms and application of the Convention in practice. Hazardous work. Further to its previous comments, the Committee notes the Government’s indication in its report that training has been conducted and resources allocated for capacity-building for OPROGEM and the Anti-Trafficking Division at the Central Office for Combating Organized Crime (OCLCO).

The Committee highlights the fact that the United Nations Committee on Economic, Social and Cultural Rights, in its concluding observations of March 2020, expressed concern at the large number of children who are exploited in economic activities, including in hazardous conditions (E/C.12/GIN/CO/1, paragraph 29). **The Committee requests the Government to provide information on the capacity-building measures implemented for the OCLCO and OPROGEM with a view to monitoring and combating hazardous work for children.**

Article 7(2). Effective and time-bound measures. Clauses (a) and (e). Preventing the engagement of children in the worst forms of child labour and giving special attention to the situation of girls. Ensuring access to free basic education. Further to its previous comments, the Committee notes the Government's indications that education is a priority and that measures have been taken to improve the school system, such as recruiting and training teachers, establishing a remote area allowance for teachers, and guaranteeing that studies are free of charge. Moreover, incentive bonuses have been granted to promote the participation of girls in education.

The Committee duly notes the "National policy for literacy and non-formal education" adopted in 2018. The National Directorate for Literacy, Non-Formal Education and the Promotion of National Languages conducted a workshop to validate a strategy paper for the implementation of a literacy programme for 2 million young persons and adults by 2020.

Moreover, the Committee notes the preparation of a sectoral plan for education and training entitled the "Ten-Year Education Programme in Guinea 2020–29". The current status report on the programme indicates that only two thirds of young persons currently receive six years of schooling. In addition, according to the latest statistics available, for the 2019–20 period the primary school enrolment rate was 78.4 per cent for girls and 93.3 per cent for boys, and the high school completion rate was 16.8 per cent for girls and 28.5 per cent for boys. **The Committee requests the Government to continue its efforts to improve the functioning of the education system in the country. In this regard, it requests the Government to take steps to increase the school enrolment, attendance and completion rates at both the primary and secondary levels, giving particular attention to the situation of girls. The Committee also requests the Government to continue providing information on the measures taken and the results achieved, including statistics on school enrolment and completion rates.**

Clause (b). Necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Begging, talibé children, and children working in mines. The Committee noted, according to the Government's indications in its previous report, that begging undertaken by children remained a major concern in Guinea. It also notes that sections 909–911 of the new Children's Code prohibit begging by children and that the perpetrators of the use of children for begging are liable to be punished by imprisonment. However, the Committee notes with **regret** the Government's indication in its report that no measures have been taken regarding children subjected to forced begging, even though it indicates that certain measures are under consideration.

In this regard, the Committee notes that the United Nations Committee on the Rights of the Child (CRC), in its concluding observations of February 2019, referred in its recommendations to the consistently high number of children involved in child labour, including the worst forms thereof, and requested the Government to strengthen its measures to combat the economic exploitation of children, in particular those working in mines and begging on the streets, including *talibé* children (CRC/C/GIN/CO/3-6, paragraph 42). **The Committee once again urges the Government to take the necessary time-bound measures to remove children under 18 years of age from begging and to provide information in this regard. The Committee once again encourages the Government to establish a time-bound programme to ensure that child beggars under 18 years of age, including talibé children, are rehabilitated and socially integrated. It also requests the Government to provide information on the measures taken regarding the situation of children working in mines.**

The Committee is raising other matters in a request addressed directly to the Government.

Guinea-Bissau

Minimum Age Convention, 1973 (No. 138) (ratification: 2009)

Previous comment: [direct request](#)

Article 1 of the Convention and application of the Convention in practice. National policy designed to ensure the effective abolition of child labour. Further to its previous comments, the Committee notes the Government's indication in its report that the national child protection policy has been drawn up but is still the subject of public consultations. The Government also indicates that, in partnership with UNICEF, it has prepared a labour instrument aimed at abolishing child labour, and this is being finalized.

The Government further indicates that it does not have any information on the effective application of the Convention since child labour is not widespread in the country and that children generally gain practical experience of certain activities or learn occupations within their families. In this regard, the Committee notes with **interest** that, according to the latest MICS (Multiple Indicator Cluster Surveys) statistics established by Guinea-Bissau with support from UNICEF, the incidence of child labour appears to have decreased from 57 per cent in 2010 to 51.1 per cent in 2014 and 17.2 per cent in 2018–19. **The Committee encourages the Government to continue its efforts to eliminate child labour in the country and would appreciate if the Government could provide information on the measures adopted that led to the reduction of child labour from 2010 to 2019. It also requests the Government to take the necessary steps to ensure the adoption in the near future of the national child protection policy and the labour instrument aimed at abolishing child labour, and to provide information on progress made in this respect and on their implementation once they have been adopted. Lastly, the Committee requests the Government to continue providing information on the manner in which the Convention is applied in practice, including statistics on the employment of children and young persons, extracts from the reports of the inspection services, and information on the number and nature of violations detected involving children and young persons.**

Article 2(1) of the Convention. Scope of application. Child domestic workers. The Committee notes the Government's indication that the latest statistical information available in the report on the situation of domestic workers in Guinea-Bissau, published in June 2020 by the National Association for the Protection of Domestic Workers, indicates that a total of 7,438 domestic workers have been recorded in the country. The Government also indicates that in Guinea-Bissau 35 per cent of children working as domestic employees are 12, 13 or 14 years of age. In this regard, the Government indicates that the new Labour Code, promulgated in July 2022, contains provisions on domestic work, including those concerning the minimum age for admission to such work, which is currently 16 years, and also the terms of domestic work contracts, remuneration arrangements, hours of work and limits on the length of the working day (meal breaks and weekly rest), holidays, and provisions on occupational safety and health (sections 287–300). **The Committee therefore urges the Government to take steps to ensure the effective application of the new Labour Code so as to ensure that children under 16 years of age do not engage in domestic work. It requests the Government to provide information on measures taken in this respect and the results achieved, including on the number of cases of children under 16 years of age engaged in domestic work who have been identified, and the penalties imposed for violations.**

Article 2(2). Raising the minimum age for admission to employment or work. The Committee notes that section 347 of the new Labour Code, promulgated in July 2022, establishes the minimum age for admission to employment or work as 16 years. However, the Committee observes that at the time of ratification of the Convention, Guinea-Bissau declared 14 years as the minimum age for admission to employment or work. **The Committee requests the Government to consider the possibility of notifying the ILO Director-General, by a new declaration within the meaning of Article 2(2) of the Convention,**

that the minimum age specified at the time of ratification of the Convention has been raised to 16 years.

Article 2(3). Age of completion of compulsory schooling. The Committee once again notes that under sections 12 and 13 of Act No. 4/2011 on education (Education Act), the age of completion of compulsory schooling is 14 years. The Committee notes that, since the new Labour Code prescribes a minimum age for admission to work of 16 years, it appears that the age of completion of compulsory schooling does not coincide with this. The Committee observes that if compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children (see [2012 General Survey on the fundamental Conventions](#), paragraph 371). **The Committee therefore encourages the Government to consider raising the age of completion of compulsory schooling so that it coincides with the minimum age for admission to employment or work.**

Article 3(1) and (2). Minimum age for admission to hazardous work, and determination of hazardous types of work. Further to its previous comments, the Committee notes that section 355(1) of the new Labour Code provides that work which, by its nature or potential risks or the circumstances in which it is carried out, is likely to jeopardize the physical or psychological development of children under 18 years of age shall be prohibited. The Committee also notes that, under section 355(2), it shall be prohibited for children under 18 years of age to work in theatres, cinemas, nightclubs, discotheques or other similar establishments, or to engage in vending or door-to-door selling of pharmaceutical products, alcoholic beverages or tobacco. However, the Government indicates that no list of hazardous types of work has been drawn up. **The Committee requests the Government to take the necessary steps to ensure that the list of hazardous types of work prohibited for children under 18 years of age is drawn up, after consultation of the employers' and workers' organizations concerned, and that it is adopted in the near future. The Committee requests the Government to provide information on all progress made in this regard.**

Article 6. Apprenticeships. The Committee notes that section 350 of the new Labour Code allows a child under 16 years of age who has not completed compulsory schooling to work if all the following conditions are fulfilled: (i) the child follows education or training which provides compulsory schooling and vocational training; (ii) in the case of a fixed-term employment contract, the length of the contract is not less than the total duration of the training, if the employer is responsible for the training process; (iii) the normal period of work includes a part devoted to training; and (iv) working hours make it possible to participate in education and training programmes. The Committee observes that the above-mentioned section appears to be concerned with cases of apprenticeship within an enterprise but that no minimum age is fixed in this regard. The Committee recalls that under *Article 6* of the Convention the minimum age for admission to an apprenticeship is 14 years. **The Committee requests the Government to take the necessary steps to ensure that the national legislation fixes the minimum age for entry to an apprenticeship at 14 years, as required by Article 6 of the Convention, and to provide information on progress made in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2008)

Previous comment: [direct request](#)

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. 1. Sale and trafficking of children. With regard to the Committee's request to provide information on the application in practice of Act No. 12/2011 on preventing and combating trafficking in persons, particularly women and children (Anti-Trafficking Act), the Government indicates in its report that it does not have any information on this matter, since the juvenile court has not received any

complaints on the worst forms of child labour. The Committee also notes with **concern** the Government's indication, in its report on the application of the Forced Labour Convention, 1930 (No. 29), that two investigations into cases of trafficking in persons have been opened but no prosecution has been initiated and no sentence has been handed down. **The Committee therefore requests the Government to ensure that persons engaging in the trafficking of children are investigated and prosecuted, and that penalties constituting an adequate deterrent are imposed. It once again requests the Government to provide information on the number of investigations, prosecutions, convictions and criminal penalties imposed for the trafficking of persons under 18 years of age, pursuant to the Anti-Trafficking Act.**

Clause (b). Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances. Further to its previous comments, the Committee notes with **regret** the Government's indication that it does not have any information on the measures taken or envisaged to ensure that the use, that is to say *by a client*, of a child between 16 and 18 years of age in prostitution is prohibited. The Committee recalls that *Article 3(b)* of the Convention prohibits not only the procuring or offering but also the use of a child under 18 years of age for prostitution. **The Committee urges the Government to take the necessary steps to ensure that the use of children between 16 and 18 years of age in prostitution is prohibited, and to provide information on progress made in this regard.**

Clause (d) and Article 4(1). Hazardous work and determination of hazardous work. **As regards the adoption of the list of hazardous types of work in which it is prohibited to employ persons under 18 years of age, the Committee refers to its detailed comments on the application of the Minimum Age Convention, 1973 (No. 138).**

Article 7(2). Effective and time-bound measures. Clause (b). Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Trafficking of boys for forced labour and begging. The Committee notes with **regret** the Government's indication that it does not have any information on the subject of boys, especially *talibés*, who are victims of trafficking for forced labour and begging. However, the Committee notes the Government's indication, in the report which it submitted on Convention No. 29, that support was given in connection with the return of *talibé* children from Senegal (164 in 2021 and 78 in 2022). The aforementioned report also indicates that trafficking victims receive multiple forms of assistance, including psycho-social assistance, food and medical care, following eight stages: (1) identification of the victim; (2) emergency care, including medical care, for the victim; (3) examination of the victim's personal situation; (4) evaluation of the victim's family situation and environment; (5) possible alternatives for placing the victim outside his/her family; (6) social and occupational reintegration; (7) monitoring of the child after return to his/her family and community; and (8) support for the development of the socio-economic capacities of the family and community. These services are provided by a variety of actors in their respective roles, including social workers, police, community officials, reception centres and social partners. **The Committee requests the Government to continue taking effective and time-bound measures to withdraw children under 18 years of age, and particularly young boys, from situations of trafficking for forced or compulsory labour, such as begging, and to ensure their rehabilitation and social integration. It requests the Government to provide information on the results achieved, particularly regarding the number of children, whether *talibé* or others, who have been withdrawn from trafficking and then rehabilitated and socially integrated via the eight stages of assistance for victims.**

The Committee is raising other matters in a request addressed directly to the Government.

Guyana

Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy for the elimination of child labour, labour inspection and application in practice. For a number of years, the Committee has urged the Government to strengthen its efforts to adopt a national policy for the elimination of child labour and to provide information on the measures taken in this direction. The Committee notes with **satisfaction** the adoption in 2019 of the National Child Labour Policy, that covers both the formal and informal economy, and the National Action Plan for the Elimination of Child Labour (2019–2025), as indicated in the Government's report. The objective of the National Child Labour Policy is to provide a supportive environment that fosters and enables the coordination, collaboration and cooperation of all parties concerned (including child protection, education and health sectors), to effectively prevent and eliminate child labour in all its forms. The National Action Plan has a three-fold dimension (preventive, protective and rehabilitative) and focuses on ten strategic issues: (1) enhancing public awareness; (2) promoting civil engagement and children participation; (3) widening access to education; (4) ensuring security for at risk families; (5) strengthening legislation; (6) ensuring rehabilitation for children removed from child labour; (7) building capacities to combat child labour; (8) implementation of a child management information system; (9) guaranteeing adequate resources; and (10) strengthening of leadership and coordination of a multi-sectoral response. The Committee notes that a National Child Labour Prevention and Elimination Committee and a Child Labour Inspectorate will be created to ensure the implementation of the National Action Plan. In this regard, the Child Labour Inspectorate should undertake regular investigation, inspection and monitoring of child labour in collaboration with other actors. The Committee also notes that the Government indicates that the National Steering Committee on Child Labour was re-established by the Ministry of Labour in 2020 and includes representatives from different ministries, the Guyana Child Protection Agency, associations of miners and the private sector. The Committee further notes that, according to the information contained in the National Action Plan, as of 2014, 18 per cent of children aged 5–17 years were engaged in child labour activities and 13 per cent worked under hazardous conditions. ***The Committee encourages the Government to continue taking measures towards the effective elimination of child labour, including hazardous child labour, within the framework of the National Child Labour Policy and National Action Plan 2019–2025, and to provide information on the results achieved. In this regard, the Committee requests the Government to provide information on the progress made towards the creation and subsequent functioning of the Child Labour Inspectorate. Finally, the Committee requests the Government to provide updated statistical information on the employment of children and young persons below the age of 15 in the country.***

Article 3(1) and (2). List of hazardous work. In reply to the Committee's request for information on the revision of the list of hazardous work, the Government indicates that this matter is still under consideration by the National Tripartite Committee. ***The Committee requests the Government to continue providing information on the progress made towards the revision of the list of hazardous work prohibited for children under the age of 18 years and to supply a copy of the new list once adopted.***

Article 3(3). Authorization to work in hazardous employment from the age of 16 years. For a number of years, the Committee has observed that section 6(b) of the Employment of Young Persons and Children Act (Chapter 99:01) authorizes the Minister to regulate the employment of children between the ages of 16–18 years in hazardous work. Recalling that *Article 3(3)* of the Convention requires that any hazardous work for persons from the ages of 16–18 years be authorized only upon the conditions that the health, safety and morals of the young persons concerned are fully protected and that they, in practice, receive adequate specific vocational training, the Committee urged the Government to bring the Employment of Young Persons and Children Act into conformity with the Convention. The Committee notes the Government's indication that, in line with the National Action Plan's strategic objective of strengthening national legislation related to child labour, the Government will send the Employment of Young Persons and Children Act to the National Steering Committee on Child Labour for its consideration and action. ***The Committee firmly hopes that the National Steering Committee on Child Labour will take the necessary steps to bring the Employment of Young Persons and Children Act into conformity with the Convention and requests the Government to provide a copy of the amendments to the Act once they have been finalized.***

Article 9(3). Keeping of registers. The Committee previously noted that section 86(a) of the Occupational Safety and Health Act, Chapter 99:06, provides for the obligation of employers of industrial establishments to keep registers of all employees under the age of 18 years and requested the Government to indicate the legislation that establishes the same obligation for employers in non-industrial undertakings. The Committee notes that the Government indicates that while section 86(a) of the Occupational Safety and

Health Act only concerns industrial establishments, the practice of the Ministry of Labour is to have in the general register the particulars of persons under the age of 18 years employed outside industrial undertakings. Taking note of the practice of the Ministry of Labour, the Committee recalls that, according to *Article 9(3)* of the Convention, national laws or regulations or the competent authority shall prescribe the registers or other documents, which shall be kept and made available by the employer, of persons whom he/she employs or who work for him/her and who are less than 18 years of age. Such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of all persons employed under the age of 18 years. ***Therefore, the Committee requests the Government to take the necessary measures to ensure that national legislation or regulations be adopted to ensure that all employers of non-industrial undertakings are obliged to keep registers of all persons below the age of 18 years who work for them, in conformity with Article 9(3) of the Convention and the indicated practice.***

The Committee recalls that the Government can avail itself of ILO technical assistance in relation to the issues raised in this observation.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Indonesia

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Previous comment

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted from the 2009 Indonesia Child Labour Survey that there were approximately 1.76 million children engaged in child labour in Indonesia. It urged the Government to strengthen its efforts to ensure the elimination of child labour and to provide information on the measures taken in this regard.

The Committee takes note of the detailed information provided by the Government in its report concerning the various measures taken to eliminate child labour. These measures include: (i) carrying out awareness-raising activities to prevent and reduce child labour; (ii) disseminating the Child-Labour Free Indonesia Roadmap, pocket books and leaflets to 20 relevant companies, agencies and institutions; (iii) encouraging the private sector to contribute to the prevention of child labour through Corporate Social Responsibility funds; (iv) providing business assistance to parents of children vulnerable to child labour; (v) developing National Guidelines for Community Based Child Labour Elimination in Villages and Districts in collaboration with NGOs; (vi) preparing regional regulations for eliminating child labour; and (vii) reviewing the Child Labour Free Indonesia Roadmap in 2022 and conducting comprehensive collaboration with related ministries and agencies to achieve SDG 8.7 of no child labour by 2030. In addition, several measures to ensure the education of children, particularly children from underprivileged families, remote and disadvantaged areas were implemented through the Smart Indonesia Programme (to prevent children from dropping-out of school) and the National Strategy for Handling Out-of-School children as well as by introducing alternative education through building and equally distributing non-formal education units in remote and disadvantaged areas. Moreover, a Community-based Education/Development Information System was established to identify out-of-school children.

The Government also refers to certain regulations and policies adopted by the Government for the protection of children, in particular the Ministerial Regulation No. 2 of 2020 concerning the 2020–2024 Strategic Plan of the Ministry of Women Empowerment and Child Protection which, amongst others, aims to reduce child labour; and the Social Minister Decree No. 1 of 2018 concerning the Family Hope Program (PPA-PKH programme) which provides cash to very poor households. The Committee further notes the Government's information that the Ministry of Manpower, through the Family Hope Programme, succeeded in removing from work, 11,252 boys and 6,748 girls in 2019, and 4,078 boys and

4,922 girls in 2020 in various sectors. Overall, from 2008 to 2020, the Child Labour Reduction Programme in support of the Family Hope Programme removed a total of 143,456 children from child labour who returned to school.

The Committee, however, notes from the Government's Combined 5th and 6th periodic report to the Committee on the Rights of the Child of 2021 that according to the findings of the 2019 National Labour Force Survey, 2.36 million (6.35 per cent) of the workforce are children aged 10–17 years (paragraph 282). ***While taking due note of the measures taken by the Government, the Committee strongly encourages the Government to continue its efforts to ensure the progressive elimination of child labour. It requests the Government to continue to provide information on the measures taken in this regard, and the results achieved in terms of the number of children removed from child labour.***

Article 2(1). Scope of application and labour inspection. 1. Informal economy. The Committee previously noted that Act No. 13 of 2003 (Manpower Act) excluded from its application children who are engaged in self-employment or working without a clear wage relationship. It also noted from the 2009 Indonesia Child Labour Survey Report that, 57 per cent of all working children aged 5–17 years were employed in agriculture, including forestry, hunting and fishery. Moreover, out of all working children between the ages of 5–12, 12.7 per cent were self-employed, and 82.5 per cent were unpaid family workers.

With regard to the situation of child labour in the agricultural sector, the Government indicates that the labour inspectorate has made efforts to monitor the situation of child labour in this sector through the declaration of child-labour-free oil palm plantation sector in 287 companies in 35 districts/cities in 7 provinces. It also indicates that Government Regulation No. 78 concerning Special Protection for Children in situations of exploitation and Presidential Regulation No. 25 of 2021 concerning Child-Friendly District/City Policies were adopted for protecting children from child labour. The Committee notes from the Government's report submitted in 2021 under the Labour Inspection Convention, 1947 (No. 81) that focus group discussions and training on handling child labour for labour inspectors were conducted. ***Noting that a vast majority of children working under the minimum age are involved in informal employment which is not covered by the Manpower Act, the Committee once again urges the Government to take the necessary measures to ensure that the Convention is applied to all children, including children working outside an employment relationship. In this regard, the Committee requests the Government to continue to take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate services to better monitor children working in the informal economy and on their own account, particularly in the agricultural sector. It requests the Government to continue to provide information on the measures taken in this regard and on the number and nature of violations relating to the employment of children and young persons detected by the labour inspectorate and the penalties imposed.***

2. Domestic work. With regard to the protection of children engaged in domestic work, the Committee requests the Government to refer to its detailed comments under the Worst Forms of Child Labour Convention, 1999 (No. 182).

Article 9(3). Keeping of registers. In its previous comments, the Committee noted that there appeared to be no provisions in the Manpower Act prescribing that a register be kept and made available by the employer.

The Committee notes that the Government has not provided any relevant information in this regard. The Committee therefore once again recalls that *Article 9(3)* of the Convention requires employers to keep registers containing the names and ages or dates of birth, duly certified wherever possible, of persons whom they employ or who work for them and who are less than 18 years of age. ***The Committee once again requests the Government to take the necessary measures, by amendment of the law or regulation, to ensure that all employers are obliged to keep registers of all persons below***

the age of 18 years who work for them, in conformity with Article 9(3) of the Convention and to provide information on any measures taken in this regard.

The Committee is raising other points in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Previous comments: [observation](#) and [direct request](#)

Articles 3 and 5 of the Convention. Worst forms of child labour and monitoring mechanisms. Clause (a). Sale and trafficking of children. With regard to its previous comments concerning the measures taken to strengthen the capacities of the law enforcement bodies to combat trafficking in persons, the Committee notes the Government's information in its report that in 2021, the Ministry of Women Empowerment and Child Protection (MoWECP) organized several trainings on issues related to trafficking in persons for 140 law enforcement & Human Resources officials from 34 provinces in Indonesia. The MoWECP also issued the Ministerial Regulation No. 08/2021 on the Standard Operating Procedure (SOP) for Integrated Services for Witnesses and/or Victims of trafficking in persons. The scope of this regulation includes complaints mechanism, health rehabilitation, legal assistance, repatriation, social rehabilitation and reintegration. Moreover, the Indonesian National Police conducts routine trainings on handling cases related to trafficking in persons for its officials and criminal investigators from the central and regional police offices. According to the data from the National Police Criminal Investigation Department, from 2015 to 2021, there were 1,279 victims of trafficking, including 25 girls and one boy. There were 103 cases involving 189 suspects, of which 78 cases have been completed. Moreover, based on the data compiled by the Online Information System for the Protection of Women and Children (SIMFONI PPA) in June 2022, the number of cases of trafficking in persons has increased steadily, from 226 cases in 2019, to 422 cases in 2020; and 683 cases in 2021. The majority of victims (91 per cent) were women and girls, while 9 per cent were men, including boys.

The Committee, however, notes from the UNICEF Report on State of Children in Indonesia, 2020 that Indonesia is a major source (and a destination and transit) country for trafficking in persons, including children, for purposes of sexual and labour exploitation. Indonesian women and girls are subjected to sex trafficking primarily in Malaysia, the Middle East and Taiwan as well as subjected to internal trafficking – particularly for mining operations in Maluku, Papua and Jami province. ***The Committee urges the Government to strengthen its efforts to combat trafficking of children by ensuring that thorough investigations and prosecutions are carried out against persons who engage in the trafficking of children and to provide information on the number of investigations, prosecutions and convictions, as well as the specific penalties imposed in this respect. In this regard, it requests the Government: (1) to continue to take the necessary measures to strengthen the capacity of law enforcement bodies to combat trafficking in children, including by means of training on anti-trafficking legislation and the provision of adequate resources, and (2) provide information on the criteria used for the identification of victims of trafficking as well as on the challenges faced by law enforcement bodies in this regard. The Committee requests that the Government provide information on the measures taken in this regard and the results achieved.***

Clause (c). Use, procuring or offering of children for the production and trafficking of drugs. The Committee previously noted that section 89 of the Act on Child Protection of 2002, provides for penalties involving imprisonment for life for persons who involve children in the production, sale and trafficking of drugs. However, it noted the Government's information that there had not been any significant progress made with regard to the prosecution of persons employing children in several of the worst forms of child labour, including drug trafficking, and that some cases were not taken to court.

The Committee notes the Government's reference to section 133(1) of Law No. 35 of 2009 on Narcotics that establishes penalties of imprisonment for involving children under the age of 18 years

for drug related offences, including the production, selling, buying and importing of drugs. The Government further provides information concerning the judicial procedure for drug related offences and indicates that children who engage voluntarily or without orders from an adult person in drug related offences shall be punished. Referring to its [general observation on Convention No. 182 adopted in 2020](#), the Committee emphasizes that children involved in the worst forms of child labour, such as work in illicit activities should be treated as victims, rather than criminals. ***The Committee urges the Government to take the necessary measures to ensure that thorough investigations and prosecutions of persons who involve children in the production, sale or trafficking of illicit drugs are carried out and that sufficiently effective and dissuasive sanctions are imposed in practice. It also requests the Government to take the necessary measures to ensure that children engaged in drug related offences are treated as victims rather than offenders and therefore are not punished. The Committee further requests the Government to provide information on the number of investigations, prosecutions and sanctions imposed pursuant to section 89 of the Act on Child Protection of 2002 and section 133(1) of Law No.35 of 2009 about Narcotics.***

Clause (d). Hazardous work. Child domestic workers. The Committee previously noted that the Domestic Workers Protection Bill, which will regulate domestic work by children under 18 years of age, was undergoing endorsement. It also noted that three local regulations on the protection of domestic workers were initiated in Bandar Lampung City, South Sulawesi Province and in Malang District. It further noted that the Committee on the Rights of the Child, in its concluding observations of 10 July 2014 expressed concern, at the high number of children, as young as 11 years old, who were involved in hazardous work in domestic work.

The Committee notes the Government's information that efforts are being made to eradicate hazardous child labour in the domestic sector through the Reduction of Child Labour to support the Family Hope Programme (PPK-PKH Programme) 2008–2020. Moreover, community-based child-labour eradication programmes, are being conducted in four regions namely Bandar Lampung City, South Sulawesi Province, Malang and Banten Districts. The Government also indicates that two regulations were issued for the prevention of child domestic work at the regional level, namely the Regent Regulation No. 4 of 2018 concerning Improving the Competence of Domestic Workers and Regulation No. 8 of 2018 concerning the Protection of Female Domestic Workers in Bandar Lampung City. With regard to the Domestic Workers Protection Bill, the Government states that a task force has been established to expedite its adoption process.

The Committee further notes that the ILO Project, namely Promoting Decent work for Domestic Workers and the Elimination of Child Labour in Domestic Work in Indonesia, 2018 had led to the development of ten emerging good practices from Indonesia which includes: campaigning through social media and engaging mass media to promote decent work for domestic workers and eliminate child domestic work; community-based monitoring; improving domestic worker supplier agencies' practices through Codes of Conduct, which includes respecting the minimum age of 18 years for recruitment and placement of domestic workers. ***The Committee strongly encourages the Government to continue its efforts to address the situation of child domestic workers, and to continue to provide information on the measures taken and the results achieved, particularly in terms of the prevention and withdrawal of children from domestic work. The Committee further hopes that the Government will take the necessary measures to ensure that the Domestic Workers Protection Bill is adopted, without delay, in order to ensure the comprehensive protection of children under 18 years from domestic work. It requests the Government to provide information on any progress made in this regard and to provide a copy once adopted.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and assisting the removal of children from these worst forms. Commercial sexual exploitation of children. The Committee previously noted that the Government developed a guideline entitled "Child-friendly Tourism Villages" which would be applied as part of the

Community-based Integrated Child Protection Villages in tourism spots. It had urged the Government to intensify its efforts to protect children under 18 years of age from commercial sexual exploitation, including in the tourism sector.

The Committee notes the Government's information that Law No. 12 of 2022 concerning the Crime of Sexual Violence, which also regulates matters relating to the protection of victims of sexual exploitation along with penalties for its perpetrators have been adopted. The Government also indicates that throughout 2021, the MoWECP conducted Training of Trainers for the establishment of Exploitation-Free Child-Friendly Tourism Villages for 14 districts in 8 provinces, and from 2021–22, conducted Technical Guidance and Assistance for the Establishment of Exploitation-Free Child-Friendly Tourism Villages in 8 villages. The Government states that through these activities the villages have committed to protecting children and offering help and assistance for children in dealing with cases of exploitation including trafficking for sexual exploitation. The Committee, however, notes from the UNICEF report on the State of children in Indonesia, 2020 that children are sexually exploited in tourism in the Riau Islands bordering Singapore and in Bali. Furthermore, according to the UNICEF Press release of 22 July 2022 on the findings of a survey entitled Disrupting Harm in Indonesia, 2021 (funded by the Global Partnership to End Violence against Children with UNICEF as one of its partners), at least 2 per cent of children (around 500,000) aged 12–17 years in Indonesia are reported to be victims of online sexual exploitation. ***The Committee urges the Government to continue to take effective and time-bound measures to identify and protect children under the age of 18 years from commercial sexual exploitation in the tourism sector and online sexual exploitation. It requests the Government to continue to provide information on the measures taken in this regard, including the number of children who have been removed from commercial sexual exploitation and rehabilitated. Lastly, the Committee requests the Government to continue to provide information on the impact of the Guideline on Child-friendly Tourism Villages in preventing children from engaging in commercial sexual exploitation.***

The Committee is raising other matters in a request addressed directly to the Government.

Iraq

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019. The Committee notes the detailed discussion which took place at the 108th Session of the Conference Committee on the Application of Standards in June 2019, concerning the application by Iraq of the Convention.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)

Articles 3(a) and 7(1) of the Convention. All forms of slavery and practices similar to slavery. Compulsory recruitment of children for use in armed conflict and penalties. In its previous comments, the Committee noted from the report of the United Nations Secretary-General on Children and Armed Conflict of 16 May 2018 that the recruitment of children for their use in armed conflict is still prevailing on the ground. The Committee also noted that the UN Secretary-General expressed his concern about the organization of military training for boys aged 15 and above by the pro-government Popular Mobilization Forces (PMF) and encouraged the Government to develop an action plan to end and prevent the alleged training, recruitment and use of children by the PMF (A/72/865–S/2018/465, paragraph 85). The Committee strongly urged the Government to take measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop to the forced recruitment of children under 18 years of age into armed forces and armed groups.

The Committee notes that the Conference Committee urged the Government to provide an immediate and effective response for the elimination of the worst forms of child labour, including to: (i) take measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children into armed forces and armed groups; (ii) adopt legislative measures to prohibit the recruitment of children under 18 years of age for use in armed conflict; (iii) take immediate and effective measures to ensure that thorough investigations and prosecutions of all persons who forcibly recruit children for use in armed conflict are carried out and sufficiently effective and dissuasive penalties are imposed in practice; and (iv) collect and make available without delay information and statistics on investigations, prosecutions and penalties relating to the worst forms of child labour according to national enforcement mechanisms.

The Committee notes the observations of the ITUC that children are recruited and trained for suicide attacks, production of explosives and sexual exploitation. The eradication of these forms of child labour must be the highest of priorities for the Government of Iraq. It would also appear that military training is organized for boys aged 15 and over by pro-government forces. To combat these practices, it is essential for the legislation in Iraq to establish this prohibition explicitly together with effective and dissuasive penalties against those responsible for such recruitment.

The Committee notes the Government's reference to Law No. 28 of 2012. The Committee observes however that Law No. 28 is related to trafficking in persons and is not linked to the recruitment of children for use in armed conflict. The Committee notes the Government's indication that the competent courts have taken all legal measures to investigate those accused of mobilizing and recruiting children. The Government adds that there have been unverified reports of cases of children being forcibly recruited and compelled to fight by armed and similar groupings unlawfully claiming to be affiliated with the PMF. The only information that has been corroborated relates to terrorist groupings associated with the Islamic State in Iraq and Levant (ISIL) and their forced recruitment of children into their organizations and use of them in suicide missions and as human shields.

The Committee observes that in its report "Children and armed conflict" of 2019, the UN Secretary-General (UN Report) indicates that 39 children were recruited and used by parties to the conflict including five boys between the ages of 12 and 15, used by the Iraqi Federal Police in Nineveh Governorate to fortify a checkpoint, and one 15-year-old boy used by ISIL in Anbar Governorate to drive a car bomb into Fallujah city. In addition, 33 Yazidi boys between the ages of 15 and 17 were rescued after being abducted in Iraq in 2014 by ISIL and trained and deployed to fight in the Syrian Arab Republic (A/73/907/S/2019/509, paragraph 71).

The Committee once again **deeply deplores** the current situation of children affected by armed conflict in Iraq, especially as it entails other violations of the rights of the child, such as abductions, murders and sexual violence. It recalls that, under *Article 3(a)* of the Convention, the forced or compulsory recruitment of children under 18 years of age for use in armed conflict is considered to be one of the worst forms of child labour and that, under *Article 1* of the Convention, Member States must take immediate and effective measures to secure the elimination of the worst forms of child labour as a matter of urgency. ***While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee once again strongly urges the Government to take measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop to the forced recruitment of children under 18 years of age into armed forces and armed groups. It also once again urges the Government to take immediate and effective measures to ensure that thorough investigations and prosecutions of all persons, including members in the regular armed forces, who recruit children under 18 years of age for use in armed conflict, are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. Finally, the Committee once again urges the Government to take the necessary measures to ensure the adoption of the law prohibiting the recruitment of children under 18 years of age for use in armed conflict and expresses the firm hope that this new law will establish sufficiently effective and dissuasive penalties. The Committee requests the Government to provide information on any progress made in this regard.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (c). Prevent the engagement of children in the worst forms of child labour. Access to free basic education. The Committee notes that the Conference Committee urged the Government to: (i) develop policies and programmes aimed at ensuring equal access to free public and compulsory education for all children by taking steps to give immediate effect to its previous commitment to introduce laws that prohibit the recruitment of children for armed conflict and

dissuasively penalize those who breach this law; and (ii) supplement without delay the UNESCO “Teach a Child” project and other projects with such other measures as are necessary to afford access to basic education to all children of school age, particularly in rural areas and areas affected by war.

The Committee notes the Government’s reference to a number of projects and programmes aiming to provide access to basic education for all children including: (i) the UNESCO “Teach a child” project has been implemented in the General Directorates of Education in the following governorates (Baghdad/Al-Rusafa Third/Al-Karkh Third) during the 2018–19 school year; (ii) the “Stabilization and Peace” programmes have been implemented in Nineveh Governorate during the 2018–19 school year, with support from the Mercy Corps international organization, to bring school dropouts in the 12–18 age group back into the classrooms; and (iii) programmes have been implemented to foster educational opportunities for young people from the governorates affected by the crises in Iraq (i.e. Baghdad/Al-Karkh First and Second/Al-Rusafa First and Second/Diyala/Kirkuk/Al-Anbar/Saladin) by opening “Haqak Fi Altaalim” centres for the 10–18 age group during the 2018–19 school year with the support of the Mercy Corps international organization. The Government also states that schools have been opened and have accelerated learning offered to bring in children in the 10–18 age group in the different governorates with appropriate monitoring and follow-up. ***While acknowledging the difficult situation prevailing in the country, the Committee encourages the Government to continue to take the necessary measures to improve access to free basic education of all children, particularly girls, children in rural areas and in areas affected by the conflict. It also requests the Government to continue to provide information on the results achieved through the implementation of projects, particularly with respect to increasing the school enrolment and completion rates and reducing school drop-out rates so as to prevent the engagement of children in the worst forms of child labour.***

Clause (b). Providing the necessary and appropriate assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. 1. Children in armed conflict. The Committee notes the Government’s indication that a High-Level Supreme National Committee was established to follow up on abuses to which children are subjected to or the deprivation of their rights as a result of the armed conflict. This Committee is chaired by the Minister of Labour and Social Affairs and the Head of the Childcare Agency, with the membership of the board of the High Commission for Human Rights, the Ministry of the Interior, the Ministry of Education, the NGO Directorate, along with a representative from the PMF and another from the Foreign Ministry.

The Committee notes that according to the UN Report, as of December 2018, at least 902 children (850 boys and 52 girls) between the ages of 15 and 18 remained in detention on national security-related charges, including for their actual and alleged association with armed groups, primarily ISIL (paragraph 72). The Committee ***deplores*** the practice of the detention and conviction of children for their alleged association with armed groups. In this regard, the Committee must emphasize that children under the age of 18 years associated with armed groups should be treated as victims rather than offenders (see 2012 General Survey on the fundamental Conventions, paragraph 502). ***The Committee, therefore, once again urges the Government to take the necessary measures to ensure that children removed from armed groups are treated as victims rather than offenders. It also, once again, urges the Government to take effective and time-bound measures to remove children from armed groups and ensure their rehabilitation and social integration. It requests the Government to provide information on the activities of the High-Level Supreme National Committee and the results achieved, in terms of the number of children removed from armed groups and socially reintegrated.***

2. Sexual slavery. The Committee notes that the Conference Committee urged the Government to take effective measures to identify and support children, without delay, who have been sexually exploited and abused through such means of sexual enslavement.

The Committee notes the Government’s reference to article 29(iii) of the Constitution (prohibition of economic exploitation of children) as well as to section 6(iii) of the Labour Law of 2015 (elimination of child labour). The Committee notes however the absence of information on the practical measures envisaged or taken to identify and remove children from sexual slavery. ***The Committee therefore once again urges the Government to take effective and time-bound measures to remove children under 18 years of age from sexual slavery and ensure their rehabilitation and social integration. It once again requests the Government to provide information on specific measures taken in this regard as well as the number of children removed from sexual slavery and rehabilitated.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Kenya

Minimum Age Convention, 1973 (No. 138) (ratification: 1979)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted the Government's indication that it had established several social support programmes, including the Cash Transfer Programmes to Orphans and Vulnerable Children (CT-OVC); Urban Food Subsidy; and several bursaries such as the Presidential Bursary Scheme for Orphans and Vulnerable Children. It further noted several activities undertaken by the ILO-IPEC, through the Global Action Programme (GAP 11) as well as the achievements made under the Support to the National Action Plan (SNAP) project. The Committee, however, noted from the SNAP project report that child labour remained a developmental challenge in Kenya that was linked to issues such as access to education, skills training and related services, social protection and the fight against poverty. The Committee therefore strongly encouraged the Government to strengthen its efforts to improve the situation of children under the age of 16 years and to ensure the progressive elimination of child labour in the country.

The Committee notes the detailed information provided by the Government in its report on the measures taken to eliminate child labour through improving the functioning of the educational system. In this regard, the Committee notes the measures taken to improve school enrolment and attendance rates and reduce drop-out rates, such as the implementation of: (i) free primary education policy; (ii) provision for primary school infrastructure improvement grants; and (iii) the implementation of feeding programmes in selected primary schools in arid and semi-arid lands (ASAL), slums and poverty-stricken areas.

The Committee further notes the information from the ILO website that in October 2016, the National Assembly of Kenya adopted a National Policy on Elimination of Child Labour (NPCL) which aims at building synergies and mainstreaming child labour interventions in national, county and sectoral policies. The National Policy focuses on strategies that are aimed at the prevention, identification, withdrawal, rehabilitation and reintegration of children involved in all forms of child labour. It also notes from the Government's report to the Human Rights Council that a National Plan of Action (NPA) for Children 2015-2022 has been adopted which proposes to implement programmes for children (A/HRC/WG.6/35/KEN/1, paragraph 16).

However, the Committee notes the Government's further indication that 17 per cent of children aged between 5-17 years are involved in child labour with the agricultural and domestic sectors being the main areas where child labour is more prevalent. The Committee further notes from the UNICEF Situation Analysis of Children and Women in Kenya, 2017 that a total of 9.5 million children in Kenya are experiencing multidimensional child poverty. While noting the measures taken by the Government, the Committee must express its **concern** at the significant number of children who are involved in child labour and are at risk of being engaged in child labour. ***The Committee therefore urges the Government to intensify its efforts to improve the situation of children under the age of 16 years and to ensure the progressive elimination of child labour in the country. It requests the Government to continue to provide specific information on the concrete measures taken in this regard, including the measures taken within the framework of the NCLP and the NPA 2015-2022 as well as the results achieved. The Committee also requests the Government to provide detailed information on the manner in which the Convention is applied in practice, including, for example, statistical data on the employment of children and young persons, extracts from the reports of the inspection services, and information on the number and nature of violations detected and penalties applied involving children and young persons.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and penalties. Trafficking of children. The Committee notes from the Assessment Report on Human Trafficking Situation in the Coastal Region of Kenya, 2018 by the International Organization for Migration (IOM Assessment Report), that Kenya has been identified as a source, transit and destination country for men, women and children subjected to forced labour and sex trafficking. The IOM has documented that internal trafficking occurs within Kenya mainly for purposes of domestic labour and sexual exploitation, while international or cross-border trafficking occurs for purposes of forced labour, domestic servitude and sexual exploitation. Child trafficking constitutes the main category of cases reported in the country and children are trafficked to work as domestic labourers, work in farming, fisheries, begging and for sex work in the coastal region of Kenya. This report also indicates that trafficking in persons in the coastal region of Kenya has been increasing with the most prevalent forms being trafficking for labour and sexual exploitation and child trafficking. The Committee also notes that the Committee on the Elimination of Discrimination against Women (CEDAW) in its concluding observations of November 2017 expressed its concern that women and girls, including in refugee camps, remain at risk of trafficking for purposes of sexual exploitation or forced domestic labour and at the low level of prosecutions of traffickers, particularly under the Counter-Trafficking in Persons Act of 2010 (CEDAW/C/KEN/CO/8, paragraph 26). **The Committee therefore urges the Government to take the necessary measures to ensure the effective implementation and enforcement of the provisions of the Counter Trafficking in Persons Act by conducting thorough investigations and prosecutions against persons who engage in the trafficking of children and ensuring that sufficiently effective and dissuasive sanctions are imposed. It requests the Government to provide information on the measures taken in this regard and on the number of investigations, prosecutions, convictions and penalties imposed for the offences related to the trafficking of children under 18 years of age.**

Articles 3(d), 4(1) and 7(2)(a) and (b). Hazardous work and effective and time-bound measures to prevent the engagement of children in, and to remove them from the worst forms of child labour and to provide for their rehabilitation and social integration. Child domestic work. In its previous comments, the Committee noted that section 12(3), read in conjunction with section 24(e) of the Employment (General) Rules of 2014, prohibits the employment of children under the age of 18 years in various types of hazardous work listed under fourth schedule of the Rules, including domestic work. The Committee also noted that ILO-IPEC, through the Global Action Programme (GAP 11) has supported several activities, including the carrying out of a situational analysis for child domestic workers in Kenya. According to the GAP report of 2014, the situation analysis revealed that, children over 16 years of age, some of whom started working at 12–13 years, are involved in domestic work in Kenya. Many are underpaid and work for long hours averaging 15 hours per day and are subject to physical and sexual abuse. It further noted that according to the report entitled Road Map to Protecting Child Domestic Workers in Kenya: Strengthening the Institutional and Legislative Response, April 2014, there were estimated 350,000 child domestic workers in Kenya, the majority of whom are girls between 16 and 18 years of age. The Committee requested the Government to take the necessary measures to prevent child domestic workers from engaging in hazardous work and to take effective and time bound measures to remove them from such work and to provide for their rehabilitation and social integration.

The Committee notes that the Government has not provided any information on the measures taken to remove children from hazardous domestic work nor on measures for their rehabilitation and social integration. However, it notes the Government's indication in its report that 17 per cent of children aged between 5–17 years are involved in child labour with the agricultural and domestic sectors being the main areas where child labour is more prevalent. About 82 per cent of the domestic workers are girls from rural areas working in urban centres. The Committee notes with **concern** the large number of children under the age of 18 years who are involved in domestic work and are subject to hazardous working conditions. **The Committee therefore once again urges the Government to take the necessary measures to ensure that its new regulation on hazardous work is effectively applied so as to prevent domestic workers under 18 years of age from engaging in hazardous work. It also requests the Government to take effective and time-bound measures to provide the necessary and appropriate direct assistance to remove children engaged in domestic work from hazardous working conditions and ensure their rehabilitation and social integration.**

The Committee finally requests the Government to provide information on the measures taken in this regard and on the results achieved, in terms of the number of child domestic workers removed from such situation and rehabilitated.

Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. 1. Street children. In its previous comments, the Committee noted the Government's information that the Government, in partnership with ILO-IPEC was working to support the removal of children from street work and to enrol them in skills training programmes and entrepreneurship training. The Committee requested the Government to continue to provide information on the measures taken by the Government to protect street children from the worst forms of child labour and to provide for their rehabilitation and social integration.

The Committee notes the Government's information that it has been implementing the Street Family Rehabilitation Trust Fund and that it is in the process of developing a National Policy on Rehabilitation of Street Families. The Committee also notes that according to the UNICEF Situation Analysis of Children and Women (SITAN report) in Kenya, 2017 under the Street Family Rehabilitation Trust Fund, more than 80,200 street children and youth have been enrolled in primary and secondary schools, while 18,000 street children have been re-integrated with their families. However, SITAN report indicates that there are an estimated 50,000 to 250,000 children who are living and/or working on the streets in Kenya. While noting the measures taken by the Government the Committee must express its **concern** at the significant number of children working on the streets. ***The Committee therefore urges the Government to intensify its efforts to protect street children from the worst forms of child labour, and to ensure the rehabilitation and social integration of children actually removed from the streets. It also requests the Government to provide information on the measures taken in this regard and the results achieved in terms of the number of street children removed from such situations and socially reintegrated.***

2. Orphans of HIV/AIDS and other vulnerable children (OVCs). The Committee previously noted, that according to the ILO-IPEC TACKLE project report entitled "Combating child labour in Siaya District, Kenya through sustainable home grown school feeding programme", the Government of Kenya estimated that 1.78 million children are orphans in Kenya, half of them being due to HIV/AIDS related deaths, with 40 per cent of them living with their grandparents. The Committee requested the Government to strengthen its efforts to protect child victims and orphans of HIV/AIDS from the worst forms of child labour, in particular by increasing their access to education.

The Committee notes that the Government has not provided any information in this regard. It notes from the SITAN report that currently 353,000 households are benefitting from the Cash Transfer Programme for OVCs. Moreover, the Presidential Bursary Scheme for OVCs is being provided to 50 children per constituency. The SITAN report further indicates that there are 854 registered Charitable Children's Institutions in Kenya providing care and protection to around 43,000 children. The Committee, however, notes from the SITAN report that approximately 3.6 million Kenyan children are orphans or otherwise classified as vulnerable. Of these, 646,887 children have lost both parents, while 2.6 million have lost one parent (one million of these due to AIDS). Other children are made vulnerable due to poverty, harmful cultural practices, abandonment, natural disasters, ethnic and political conflict and/or poor care arrangements. ***Recalling that orphans and OVCs are at a greater risk of being involved in the worst forms of child labour, the Committee urges the Government to intensify its efforts to ensure that such children are protected from the worst forms of child labour and to facilitate their access to education. It requests the Government to provide information on the effective and time bound measures taken and the results achieved in this regard.***

Clause (e). Take account of the special situation of girls. Commercial sexual exploitation of girls. In its previous comments, the Committee noted that children were exploited in prostitution throughout Kenya, including in the coastal sex tourism industry, in the eastern khat cultivation areas, and near Nyanza's gold mines. Brothel-based child prostitution was reportedly increasing in Migori, Homa Bay, and Kisii counties, particularly around markets along the border with the United Republic of Tanzania. The Committee requested the Government to take effective and time bound measures to protect girls from becoming victims of commercial sexual exploitation and to provide information on such measures.

The Committee notes an absence of information in the Government's report on this point. The Committee, however, notes from the SITAN report that the sexual exploitation of children in travel and tourism is reportedly common in major tourist destinations such as Nairobi, Mombasa, Kisumu, Kakamega,

Nakuru as well as in other major towns in Kenya. It also notes from the IOM Assessment Report that an estimated 10,000 to 15,000 girls between 12 and 18 years living in Diani, Kilifi, Malindi and Mombasa are involved in sex work. This report also indicates that child sex workers including beach boys, bar staff, waiters and others are often compelled to deliver sexual services and that during the low tourist season, the local market for child sex workers keeps the system going. The Committee further notes that the Committee on the Rights of the Child, in its concluding observations of 2016, expressed concern about the high level of child prostitution and child pornography, particularly in the tourism and travel sector (CRC/C/KEN/CO/3-5, paragraph 37). The Committee notes with **deep concern** the significant number of children who are engaged in this worst forms of child labour in Kenya. **The Committee therefore urges the Government to take effective and time-bound measures to protect girls from becoming victims of commercial sexual exploitation, particularly in the coastal regions of Kenya. It requests the Government to provide information on the measures taken in this regard and the results achieved in terms of the number of children who are, in practice, removed from commercial sexual exploitation and rehabilitated.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Lao People's Democratic Republic

Minimum Age Convention, 1973 (No. 138) (ratification: 2005)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously requested the Government to provide information on the implementation of the National Strategy and Plan of Action on Prevention and Elimination of Child Labour (2014-2020), which aims at improving access for child labourers and vulnerable children to services and interventions, maintaining children in school and mainstreaming child labour concerns into agriculture sector policies and interventions. The Committee also requested the Government to provide information on the development of a database on child labour and school attendance and of the second National Child Labour Survey, planned for 2020.

The Government indicates in its report that it has collected data in two provinces (Savannakhet and Salavan), within the framework of the National Strategy and Plan of Action on Prevention and Elimination of Child Labour (2014-2020). The Committee observes however that the corresponding data has not been provided by the Government. The Committee notes from the Government's report to the United Nations Committee on the Rights of the Child (CRC) of October 2017, that the National Strategy and Plan of Action on Prevention and Elimination of Child Labour (2014-2020) institutionalized mandatory training on child labour for law enforcement officials, prosecutors, judges and labour inspectorates (CRC/C/LAO/3-6, paragraph 178).

The Committee observes that according to the Lao Social Indicator Survey II 2017 (LSIS II), issued in 2018 by the Lao Statistics Bureau and UNICEF, 41.5 per cent of children aged 5-14 years are engaged in child labour. It further notes that 16.5 per cent of children aged 5-11 years and 39.3 per cent of children aged 12-14 years are involved in hazardous types of work. A total of 27.9 per cent of children aged 5-17 years work under hazardous conditions (26.7 per cent of girls and 29 per cent of boys). The Committee is therefore bound to express its **concern** at the significant number of children below the minimum age for admission to employment who are engaged in child labour, including in hazardous conditions. **The Committee requests the Government to strengthen its efforts to ensure the progressive elimination of child labour in all economic activities. It requests the Government to provide information on the measures taken in this respect as well as on the results achieved, including within the framework of the National Strategy and Plan of Action on Prevention and Elimination of Child Labour (2014-2020).**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2005)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations of the International Organisation of Employers (IOE), and the International Trade Union Confederation (ITUC) received on 29 August and 1 September 2019, respectively. It also notes the detailed discussion which took place at the 108th Session of the Conference Committee on the Application of Standards in June 2019, concerning the application by the Lao People's Democratic Republic of the Convention.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)

Articles 3(a) and (b) and 7(1) of the Convention. Worst forms of child labour and penalties. Trafficking and commercial sexual exploitation. The Committee previously noted the Government's information that it was taking measures to implement the Anti-Human Trafficking Law of 2015, which imposes a sentence of 15 to 20 years of imprisonment for trafficking of children, in order to combat the trafficking and commercial sexual exploitation of children. The Committee also noted from the National Commission for the Advancement of Women and Mothers and Children (NCAW-MC), that the People's Supreme Court recorded 264 cases involving trafficking of children in 2017. It further noted that the United Nations Committee on the Rights of the Child (CRC) expressed concern at the large number of cases of trafficking and sexual exploitation of children not leading to prosecutions or convictions, among other reasons because of traditional out-of-court settlements at the village level, corruption and the alleged complicity of law enforcement, judiciary and immigration officials. The Committee therefore urged the Government to take the necessary measures to ensure that, in practice, thorough investigations and prosecutions were carried out for persons who engaged in the trafficking of children including foreign nationals and state officials suspected of complicity, and that sufficiently effective and dissuasive sanctions were imposed.

The Committee notes that the Government representative of Lao, during the discussion at the Conference Committee, indicated that at the village level, the Child Community Protection Network has been established to make child protection services more accessible to communities, including for children at risk of being trafficked or sexually exploited.

The Committee notes that, in its conclusions adopted in June 2019, the Conference Committee urged the Government to continue to formulate and thereafter carry out specific measures targeted at eliminating the worst forms of child labour, including trafficking and commercial sexual exploitation of children, in consultation with the social partners. The Conference Committee also urged the Government to take measures as a matter of urgency to strengthen the capacity of the law enforcement authorities including the judiciary; and to establish a monitoring mechanism in order to follow-up on complaints filed, investigations carried out as well as to ensure an impartial process of prosecuting cases that takes into account the special requirements of child victims, such as protecting their identity and the ability to give evidence behind closed doors.

The Committee notes the observations of the IOE that the national system is lacking consistency and effectiveness to combat child trafficking and commercial sexual exploitation, leading to few investigations, prosecutions and convictions relating to cases of trafficking of children for exploitation. The Committee also notes the observations of the ITUC that it is concerned at the absence of concrete steps taken by the Government to combat in practice the incidence of child trafficking and exploitation. It deplores the lack of results obtained so far in adequately investigating, prosecuting and convicting those responsible for child trafficking and states that stronger enforcement measures are needed in this regard.

The Committee notes the Government's information, in its report, that according to the data of the National Anti-trafficking Committee, in 2018, law enforcement officers have investigated and prosecuted 39 cases of trafficking in persons, including 26 new cases, involving 64 victims among which 24 were under 18 years of age. The Government also indicates that it will immediately build the technical capacities of law enforcement officials and judicial bodies to allow them to perform their duties with transparency, impartiality and effectiveness.

The Committee observes that, according to the report of the United Nations Special Rapporteur on the sale and sexual exploitation of children of January 2019 on her visit to the Lao People's Democratic

Republic, the sexual exploitation of children, mainly girls, by both locals and foreigners, is an issue of concern in the country, happening in places such as casinos, bars and brothels, with the complicity of the authorities in some instances. It indicates that the sale and trafficking of children for sexual and labour exploitation, both internally and externally, including to Thailand, is also an issue of utmost concern in the country (A/HRC/40/51/Add.1, paragraphs 9, 10, 11 and 17). The Special Rapporteur also states that the lack of accountability for the perpetrators of trafficking in children and of enforcement of the existing legal frameworks impedes the prevention of sale and sexual exploitation of children. Moreover, the participation of the authorities in the trafficking rings and criminal networks, as well as the impunity of perpetrators are some of the main issues of concern relating to cross-border trafficking with Thailand (A/HRC/40/51/Add.1, paragraphs 25, 37 and 44).

While noting some measures taken by the Government to prosecute a certain number of cases of trafficking in persons, including children, the Committee notes an absence of information on the convictions or penalties applied, as well as an absence of information on prosecutions, convictions and penalties applied to child sex tourists. ***The Committee therefore urges the Government to strengthen its efforts to combat the trafficking and commercial sexual exploitation of children, by ensuring that traffickers, including complicit officials, as well as child sex tourists, are held accountable, through thorough investigations and prosecutions, as well as through the imposition of sufficiently effective and dissuasive penalties. It requests the Government to provide information on the application of the relevant provisions of the Anti-Human Trafficking Law in practice, indicating in particular the number of investigations, prosecutions, convictions and penal sanctions applied for the offences of trafficking and commercial sexual exploitation of persons under 18 years of age.***

Article 7(2). Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and providing assistance for the removal of children from such labour. Trafficking and commercial sexual exploitation of children. The Committee previously requested the Government to pursue its efforts to ensure that child victims of trafficking were provided with appropriate services for their repatriation, rehabilitation and social integration. The Committee also urged the Government to take effective and time-bound measures to protect children from becoming victims of commercial sexual exploitation in the tourism sector.

The Committee notes that, in its conclusion of June 2019, the Conference Committee urged the Government to take immediate and time-bound measures, together with the social partners, to protect children from falling victim to commercial sexual exploitation, including through the implementation of programmes to educate vulnerable children and communities about the dangers of trafficking and exploitation, with a focus on preventing children from being trafficked and being subject to commercial sexual exploitation, and through the establishment of centres to rehabilitate child victims and reintegrate them into society.

The Committee notes that, in its observations, the IOE calls upon the Government to implement effective measures, in consultation with employers and workers, to protect children from becoming victims of commercial sexual exploitation, targeting places where the incidence of such abuse and exploitation is said to be high. It also states that action should be taken to mobilize business groups within the tourism industry such as hotels, tour operators and taxi drivers, and to monitor more closely tourists and visitors. The Committee also notes the observations of the ITUC that it is seriously concerned that the absence of government investment in rehabilitation and education of victims of sexual exploitation and trafficking of children makes victims vulnerable to re-trafficking.

The Committee notes the Government's indication that it has conducted various awareness-raising events in several provinces in 2018 and 2019 to promote the prevention of and protection from commercial sexual exploitation of children, focusing inter alia on the tourism sector. The Government also indicates that, from 2014 to 2016, the National Commission for the Advancement of Women and Mothers and Children, together with the Ministry of Labour and Social Welfare (MLSW), provided assistance to 164 women and children victims of trafficking who were repatriated, as well as provided scholarships, vocational training, and counselling and medical services. The Government further indicates that, since 2006, the Centre for Counselling and Protection of Women and Children of the Lao Women's Union has provided 150 child victims of trafficking with accommodation and legal, medical, educational and vocational referrals. The Government specifies that four centres provide assistance to trafficking victims. It also states that, within the framework of the Memorandum of Understanding with Thailand, the Government will build a social development centre in Vientiane to provide victims of trafficking with medical services and vocational training. ***While taking note***

of the efforts being made by the Government, the Committee requests it to redouble its efforts to prevent children under 18 years of age from becoming victims of trafficking as well as commercial sexual exploitation in the tourism sector and to supply information on the measures taken in this regard. It also requests the Government to continue to take the necessary measures to provide child victims of trafficking and commercial sexual exploitation with appropriate services for their rehabilitation and social integration, and to continue to supply information on the measures taken in this regard, including the number of child victims of trafficking and commercial sexual exploitation who have been removed and provided with support and assistance.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Lebanon

Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 2(1) of the Convention. Scope of application. In its earlier comments, the Committee noted that the Labour Code only applies to work performed under an employment relationship (by virtue of sections 1, 3 and 8 of the Code). The Committee recalled that the Convention applies to all branches of economic activity and covers all types of employment or work, whether they are carried out on the basis of an employment relationship or not, and whether they are remunerated or not. The Committee also noted that under Chapter 2, section 15, of the draft amendments to the Labour Code, it seemed that the employment or work of young persons would also include non-traditional forms of employment relationship. The Committee therefore requested that the Government provide information on the progress made in relation to the adoption of the provisions of the draft amendments to the Labour Code.

The Committee notes an absence of information in the Government's report on this point. **Considering that the Government has been referring to the draft amendments to the Labour Code for a number of years, the Committee once again expresses the firm hope that the Government will take the necessary steps to ensure that the amendments to the Labour Code relating to self-employed children and children in the informal economy are adopted in the very near future. The Committee requests that the Government provide a copy of the new provisions, once adopted.**

Article 2(2). Raising the minimum age for admission to employment or work. In its earlier comments, the Committee noted that, at the time of ratifying the Convention, Lebanon declared 14 years as the minimum age for admission to employment or work and that Act No. 536 of 24 July 1996, amending sections 21, 22 and 23 of the Labour Code, prohibits the employment of young persons before the age of 14. The Committee also noted the Government's intention to raise the minimum age for admission to employment or work to 15 years of age and that the draft amendments to the Labour Code would include a provision in this regard (section 19). The Committee requested that the Government provide information on the progress made in the adoption of the provisions of the draft amendments to the Labour Code on the minimum age for employment or work.

The Committee notes the Government's indication in its report that the Committee's comments have been taken into account in the draft amendments to the Labour Code. The draft has also been submitted to the Council of Ministers for its examination. **The Committee once again requests that the Government provide information on any progress made in the adoption of the provisions of the draft amendments to the Labour Code regarding the minimum age for employment or work.**

Article 2(3). Compulsory education. In its earlier comments, the Committee noted that the age limit for compulsory education is 12 years of age (Act No. 686/1998 relating to free and compulsory education at the primary school level). The Committee also noted the Government's indication that a draft law aimed at raising

the minimum age of compulsory education to 15 years had been sent to the Council of Ministers for examination. The Committee requested that the Government indicate the progress made in this regard.

The Committee notes the Government's indication that the Ministry of Labour took into account the Committee's comments which were inserted in the draft amendments to the Labour Code. Moreover, the Committee notes that in its 2016 concluding observations, the UN Committee on Economic, Social and Cultural Rights is concerned at the number of children, especially refugee children, who are not in school or have quit school owing to the insufficient capacity of the educational infrastructure, the lack of documentation, and the pressure to work to support their families, among other reasons (E/C.12/LBN/CO/2, paragraph 62).

In this regard, the Committee recalls the necessity of linking the age of admission to employment to the age limit for compulsory education. If the two ages do not coincide, various problems may arise. If the minimum age for admission to work or employment is lower than the school leaving age, children may be encouraged to leave school as children required to attend school may also be legally authorized to work (see 2012 General Survey on the fundamental Conventions, paragraph 370). Noting the Government's intention to raise the age of completion of compulsory schooling to 15 years, the Committee once again reminds the Government that pursuant to *Article 2(3)* of the Convention, the minimum age for admission to employment (currently 14 years) should not be lower than the age of completion of compulsory schooling. **Therefore, the Committee urges once again the Government to intensify its efforts to raise the minimum age for admission to employment or work to 15 years, and to provide for compulsory education up until that age, within the framework of the adoption of the draft amendments to the Labour Code. The Committee requests that the Government provide a copy of the new provisions, once adopted.**

Article 6. Vocational training and apprenticeship. In its earlier comments, the Committee noted that the Government had stated that the draft amendments to the Labour Code (section 16) had set the minimum age for vocational training under a contract at 14 years. The Committee expressed the firm hope that such a provision under the draft amendments would be adopted in the near future.

The Committee notes the Government's indication that section 16 will be adopted along with the draft amendments to the Labour Code. The Government also indicates that the National Centre for Vocational Training is in charge of carrying out vocational training and apprenticeships. **The Committee once again expresses the firm hope that section 16 of the draft amendments to the Labour Code, setting a minimum age of 14 years for entry into an apprenticeship, in conformity with Article 6 of the Convention, will be adopted in the very near future.**

Article 7. Light work. In its earlier comments, the Committee noted that under section 19 of the draft amendments to the Labour Code, employment or work of young persons in light work may be authorized when they complete 13 years of age under certain conditions (except in different types of industrial work in which the employment or work of young persons under the age of 15 years is not authorized). The Committee also noted that light work activities would be determined by virtue of an Order from the Ministry of Labour. The Committee requested that the Government provide information on any progress made in this regard.

The Committee notes the Government's indication that it has asked for light work to be included in the ongoing ILO-IPEC Project "Country level engagement and assistance to reduce child labour in Lebanon" (CLEAR Project) and that a few meetings have been held in this regard. The Government indicates that, once the CLEAR Project is launched, it will be able to prepare a statute on light work in accordance with the relevant international standards. **The Committee once again requests that the Government take the necessary measures to ensure the formulation and adoption of a statute determining light work activities, including the number of hours during which, and the conditions in which, light work may be undertaken. It requests that the Government provide information on the progress achieved.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Articles 3, 7(1) and (2)(b) of the Convention. Worst forms of child labour, penalties and direct assistance for rehabilitation and social integration. Clause (a). All forms of slavery or practices similar to slavery. Trafficking. In its previous comments, the Committee noted the adoption of the Anti-Trafficking Act No. 164 (2011). The Committee requested the Government to provide information on the application of this Act, in practice.

The Committee notes the statistical information related to trafficking of children provided by the Government in its report. It notes that in 2014, five child victims of trafficking for labour exploitation (street begging), and one child victim of trafficking for sexual exploitation, were identified. According to the Government's indication, all the child victims identified were referred to social and rehabilitation centres, such as the "Beit al Aman" shelter in collaboration with Caritas. The Government also indicates that in 2014 the Higher Council for Childhood drafted a sectorial Action Plan on Trafficking of Children that is still under consultations with the relevant stakeholders.

The Committee also notes that in its 2015 concluding observations, the UN Committee on the Elimination of Discrimination against Women (CEDAW) recommended the Government to provide mandatory gender-sensitive capacity-building for judges, prosecutors, the border police, the immigration authorities and other law enforcement officials to ensure the strict enforcement of Act No. 164 to combat trafficking by promptly prosecuting all cases of trafficking in women and girls (CEDAW/C/LBN/CO/4-5, paragraph 30(a)). **The Committee requests the Government to take the necessary measures to ensure that the draft sectorial Action Plan on Trafficking of Children is adopted in the near future, and to provide information on any progress made in this regard. The Committee also requests the Government to continue to provide information on the application in practice of Act No. 164 of 2011, including statistical information on the number of investigations, prosecutions, convictions and penal sanctions applied for the offence of trafficking of children. Lastly, the Committee requests the Government to provide information on any measures adopted in order to prevent trafficking of children as well as measures taken to ensure that child victims of trafficking are provided with appropriate rehabilitation and reintegration services.**

Clauses (b) and (c). Use, procuring or offering of a child for the production of pornography or for pornographic performances and for illicit activities, in particular for the production and trafficking of drugs. In its previous comments, the Committee noted that under section 33(b) and (c) of the draft amendments to the Labour Code, the use, procuring or offering of a child for the production of pornography or for pornographic performances and for illicit activities is punishable under the Penal Code, in addition to the penalties imposed by the Labour Code. It also noted that section 3 of Annex No. 1 of Decree No. 8987 of 2012 on hazardous work prohibits such illicit activities for minors under the age of 18. The Committee noted the statistical information (disaggregated by gender and age) provided by the Government on the number of children found engaged in prostitution from 2010 to 2012.

The Committee notes the Government's indication that the labour inspectorate is the body responsible for the supervision of the implementation of Decree No. 8987. The Committee notes with **concern** that according to the Government's indication no cases related to the application of the Decree have been detected so far. **The Committee urges the Government to take immediate and effective measures to ensure the application in practice of the provisions of Decree No. 8987 of 2012 prohibiting the engagement of children for prostitution or pornographic purposes or for illicit activities. The Committee requests the Government to provide statistical information on any prosecutions and convictions made with regard to the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.**

As for the draft amendments to the Labour Code, the Committee once again requests the Government to take the necessary measures without delay to ensure the adoption of the provisions prohibiting the use, procuring or offering of persons under the age of 18 for the production of pornography

or for pornographic performances, and the use, procuring or offering of persons under the age of 18 for illicit activities, as well as of the provisions providing for the penalties imposed.

Article 7(2). *Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk.* 1. *Refugee children.* In its previous comments, the Committee requested the Government to provide information on the measures taken within the work programme of the National plan of action on the elimination of child labour (NAP-WFCL) for working Palestinian children to protect them from the worst forms of child labour.

The Committee notes the Government's indication that no new measures have been taken due to the political and security situation in the country. The Committee also notes that according to the 2016 United Nations High Commissioner for Refugees (UNHCR) report entitled "Missing out: Refugee Education in Crisis", there are more than 380,000 refugee children between the ages of 5 and 17 registered in Lebanon. It is estimated that less than 50 per cent of primary school-age children have access to public primary schools and less than 4 per cent of young persons have access to public secondary schools. The report highlights that since 2013 the Government has introduced a two-shift system in public schools to encourage the enrolment of refugee children. About 150,000 children have entered this system. It also notes from the ILO report entitled "ILO response to the Syrian Refugee crisis in Jordan and Lebanon", of March 2014, that many refugee children are working in hazardous conditions in the agricultural and urban informal sector, street peddling or begging. **While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take effective and time-bound measures to protect refugee children (in particular Syrian and Palestinian) from the worst forms of child labour and to provide the necessary and appropriate direct assistance for their removal and for their rehabilitation and social integration. It requests the Government to provide information on the number of refugee children who have benefited from any initiatives taken in this regard, to the extent possible disaggregated by age, gender and country of origin.**

2. *Children in street situations.* The Committee notes the Government's indication that the Ministry of Social Affairs has taken a series of measures to address the situation of street children, including: (i) undertaking activities to raise awareness through education, media and advertisement campaigns; (ii) training of a certain number of social protection actors/players working in child protection institutions; (iii) providing rehabilitation activities for a certain number of street children and their reintegration in their families; (iv) within the framework of the Poverty Reduction Strategy (2011–13) 36,575 families have been chosen to benefit from free basic social services, such as access to free compulsory public education as well as medical facilities. The Government also indicates that the 2010 draft "Strategy for Protection, Rehabilitation and Integration of Street Children" has not been implemented yet, but is in the process of being revised.

The Committee notes the 2015 study "Children Living and Working on the Streets in Lebanon: Profile and Magnitude" (ILO–UNICEF–Save the Children International) which provides detailed statistical information on the phenomenon of street-based children across 18 districts of Lebanon. The Committee also notes that the report comprises a certain number of recommendations, including: (i) enforcing relevant legislation; (ii) reintegrating street-based children into education and providing basic services; and (iii) intervening at the household-level to conduct prevention activities. The Committee further observes that despite street work being one of the most hazardous forms of child labour under Decree No. 8987 on hazardous forms of child labour (2012), it is still prevalent with a total of 1,510 children found to be living or working on the streets. Moreover, the Committee notes that in its 2016 concluding observations, the UN Committee on Economic, Social and Cultural Rights recommended that the Government raise resources so as to provide the necessary preventive and rehabilitative services to street children and enforce existing legislation aimed at combating child labour (E/C.12/LBN/CO/2, paragraph 45). **Recalling that street children are particularly vulnerable to the worst forms of child labour, the Committee urges the Government to strengthen its efforts to protect these children, and to provide for their rehabilitation and social reintegration. The Committee also urges the Government to take the necessary measures to actively implement the 2010 draft strategy entitled "Strategy for Protection, Rehabilitation and Integration of Street Children", once revised and report on the results achieved. Finally, the Committee requests the Government to provide information on the number of street children who have been provided with educational opportunities and social integration services.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Lesotho

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

Previous comment

Article 1 of the Convention. National policy designed to ensure the effective abolition of child labour and application of the Convention in practice. In response to its previous comments, the Committee notes the Government's statement in its report that it is in the process of developing the second National Action Plan on the Elimination of Child Labour (APEC-II) 2022-2026. It also notes from the Government's report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that the preliminary findings of the Labour Force Survey 2020 reveals that 2.99 per cent of children are in child labour with the highest proportion among males (79.1 per cent) and among children in the rural areas (80 per cent). The Committee further notes from the UNICEF-Lesotho 2021 Multidimensional Child Poverty Report that the country has successfully reduced poverty in the past fifteen years following the implementation of extensive social protection programmes. However, this report indicates that as of 2018, 45.5 per cent of the child population is multidimensionally poor and nearly one in three children aged 5–17 years are engaged in child labour. ***The Committee therefore requests the Government to continue to take effective measures to reduce the incidence of child labour in the country. Accordingly, it requests the Government to ensure the adoption and implementation of APEC-II without delay and to provide information on the specific measures taken within its framework to eliminate child labour and the results achieved. The Committee further requests the Government to continue to provide information on the situation of working children in Lesotho, including the number of children below the minimum age engaged in child labour and the nature, scope and trends of their work, disaggregated by age and gender. Lastly, it requests the Government to provide a copy of the results of the Labour Force Survey, once completed.***

Article 2(1). Scope of application and labour inspectorate. Self-employment and work in the informal economy. In its previous comments, the Committee noted from the Decent Work Country Programme III 2018–23 document that over 50 per cent of the labour force is employed in the informal sector and that regulating and preventing child labour is a major concern since the coverage of labour inspectorate did not include informal economy activities. It further noted that the Labour Code Amendment Bill contains provisions extending its scope as well as the labour inspection services to the informal economy.

In response to its previous comments, the Committee notes the Government's information that the labour inspectorate through the Child Labour Unit works with the Community Child Protection Teams (CCPTs) in the villages where child labour is rampant. In addition, the District Child Protection Teams (DCPTs) regularly conduct public gatherings to raise awareness on child labour issues. The Government indicates that two Child Helplines supported by the Police and the Ministry of Social Development were launched and the Child Labour Unit provides training to social workers on identifying and dealing with calls that entail child labour issues. The Committee also notes from the Government's report under Convention No. 182 that the Labour Code Amendment Bill is awaiting a clearance certificate from the Attorney General to be presented before Parliament.

The Committee further notes the Government's information in its report of 2020 to the Human Rights Committee on the International Covenant on Civil and Political Rights that the Labour Inspectorate is undergoing a restructuring process which will enable it to establish its own budget, transportation, equipment and an increase in the number of labour inspectors dedicated to child labour. The new structure suggests that there will be labour inspectors responsible for conducting inspections

in the informal sector, including domestic work and herding (CCPR/C/LSO/2, paragraph 140). ***The Committee requests the Government to continue to take the necessary measures to ensure that the protection afforded by the Convention is granted to self-employed children and children working in the informal economy, including children engaged in herding and domestic work. It requests the Government to provide detailed information on the measures taken in this regard, including within the restructuring process of the labour inspectorate as well as the measures taken by the Child Labour Unit, CCPTs and DCPTs in addressing child labour in the informal economy. The Committee finally expresses the firm hope that the Labour Code Amendment Bill which contains provisions protecting children working in the informal economy and extending labour inspection services to the informal economy, will be adopted and enforced in the near future.***

Article 2(3). Age of completion of compulsory schooling. The Committee previously noted that, according to the Education Act of 2010, the age of completion of compulsory education is 13 years in Lesotho, two years before a child is legally eligible to work (15 years).

The Committee notes the Government's information that deliberations are in progress among the responsible ministries to raise the compulsory age for education. The Committee once again reminds the Government that compulsory schooling is one of the most effective means of combating child labour, and underlines the need to link the age for admission to employment or work to the age of completion of compulsory schooling, as established in Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). If compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children (see [2012 General Survey on the fundamental Conventions](#), paragraph 371). ***The Committee therefore once again strongly encourages the Government to take the necessary measures to ensure compulsory education up to the minimum age of employment or work of 15 years. It requests the Government to provide information on any progress made in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

[Previous comment](#)

Articles 3(d) and 7(2)(b) of the Convention. Hazardous work and effective and time-bound measures to remove children from the worst forms of child labour and provide for their rehabilitation and social integration. Child domestic work. The Committee previously noted that children performing domestic work often worked under poor conditions for long hours and during the night, without adequate food and clothing, were exposed to extreme weather conditions in isolated areas, and did not attend school.

With regard to the adoption of the draft Labour Code Bill which contain provisions promoting the fundamental principles and rights of all workers, including domestic workers, the Committee notes the Government's information in its report that the Ministry of Labour and Employment is awaiting a clearance certificate from the Attorney-General for its presentation before the Parliament. The Government also indicates that the special regulations prohibiting hazardous domestic work by children under 18 years shall be developed after the adoption of the Labour Code Bill. ***The Committee once again expresses the firm hope that the Government will take the necessary measures to ensure that the Labour Code Bill which guarantees protection to domestic workers and the special regulations which prohibit hazardous domestic work by children under 18 years of age, are adopted in the near future. It requests the Government to provide information on any progress made in this regard. It further requests the Government to take effective and time-bound measures to provide the necessary and appropriate direct assistance to remove children engaged in domestic work from hazardous working conditions and ensure their rehabilitation and social integration and to provide information on the measures taken in this regard.***

Article 7(2). Effective and time-bound measures. Clause (d). Identify and reach out to children at special risk. 1. Children engaged in animal herding. The Committee previously noted from the UNICEF Multiple Indicator Cluster Survey results of 2018, that two thirds of the children involved in child labour are engaged in herding animals. It also noted that children involved in herding are still exposed to the worst forms of child labour.

In reply to its previous comments, the Committee notes the Government's information that the Ministry of Labour and Employment conducts monthly public gatherings and media campaigns in each district to sensitize the public and the herders on the implementation of the guidelines for the agricultural sector. The Government also indicates that it is anticipated to launch the second phase of the National Action Plan for the Elimination of Child Labour (APEC-II 2022–26) in October 2022. The Committee further notes from the Government's report of April 2020 to the Human Rights Committee on the International Covenant on Civil and Political Rights, that the Government has been taking measures (i) to provide sufficient resources to fully implement APEC and address in particular the exploitation of children in herding; (ii) to translate and widely disseminate the Minimum Employment Guidelines for herd-boys; and (iii) to undertake more awareness-raising programmes and campaigns against exploitation of children in herding (CCPR/C/LSO/2, paragraphs 139, 140 and 141). The Committee also notes the Government's information in its report under the Minimum Age Convention, 1973 (No. 138) that the national commemoration Day of the African Child was held in Mokhotlong where a lot of children are herd boys. ***The Committee requests the Government to continue to take effective and time-bound measures to ensure that children who are engaged in hazardous work in animal herding are removed from this worst forms of child labour and are rehabilitated and socially integrated. In this regard, it requests the Government to continue providing information on the implementation of the guidelines for the agricultural sector as well as the specific measures taken against exploitation of children in herding within the framework of APEC-II, and the results achieved.***

2. Orphans of HIV/AIDS and other vulnerable children (OVCs). Following its previous comments, the Committee notes the Government's information that the Ministry of Social Development continues to assist vulnerable families with children with a monthly stipend of M300 (approximately US\$17) in order to protect children from falling victims to the worst forms of child labour. Moreover, OVCs are freely enrolled into schools at all levels.

The Committee notes from the UNICEF report entitled *Universal Child Benefit Case Studies: the Experience of Lesotho, 2019* that the Child Grants Programme covers about 108,833 children in 38,738 households and that the Government is committed to progressively include all eligible households in this programme. The Committee notes, however, that according to the 2021 estimates from UNAIDS, about 110,000 children aged 0–17 are orphans due to HIV/AIDS in Lesotho, an increase from 85,000 in 2019. ***While taking note of the measures taken by the Government, the Committee urges the Government to continue strengthening its efforts to ensure that orphans of HIV/AIDS and other vulnerable children who are at an increased risk of being engaged in the worst forms of child labour, are protected from these worst forms. It requests the Government to continue to provide information on specific measures taken in this regard, and on the results achieved, particularly the number of OVCs benefiting from these initiatives and the nature of the assistance provided.***

The Committee is raising other points in a request addressed directly to the Government.

Liberia

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 4(1) of the Convention. Determination of hazardous work. In its previous comments, the Committee expressed the firm hope that the Decent Work Bill, which contains a provision prohibiting the

engagement of children under the age of 18 years in hazardous types of work would be adopted in the near future. It also expressed the hope that a regulation specifying hazardous types of work and processes prohibited to children under 18 years of age would be developed after consultation with the organizations of employers and workers concerned.

The Committee notes with **interest** that the Decent Work Act of 2015 has been enacted. It notes that Chapter 21, section 21.4(a) of the Decent Work Act prohibits the employment of children under the age of 18 years in those types of hazardous work enumerated under Paragraph 3 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190). Section 21.4(b) further states that the minister shall, within 12 months from the coming into force of this Act, issue regulations specifying further types of work that may be prohibited to children and identify hazardous processes, temperatures, noise levels or vibrations that are dangerous to the health of children. In this regard, the Committee notes the Government's information, in its report, that the Law Reform Committee has prepared a draft list of types of hazardous work prohibited to children and that consultations with stakeholders on its finalization are ongoing. **The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the draft list of types of hazardous work prohibited to children under 18 years of age will be finalized and adopted without delay. It requests the Government to provide information on any progress made in this regard.**

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. The Committee previously noted from the compilation prepared by the Office of the High Commissioner for Human Rights to the Human Rights Council (A/HRC/WG.6/22/LBR/2, 23 February 2015) that according to the United Nations Development Assistance Framework (UNDAF), the gender gap was apparent in education and that illiteracy rates among women and girls were especially high at 60 per cent. It further noted from this report the statement made by the United Nations Country Team in Liberia that, due to the spread of the Ebola Virus Disease (EVD), schools had been ordered to be closed in June 2014 and an estimated 1.4 million students had been forced to stay home. The Committee requested the Government to take the necessary measures to ensure the proper functioning of the education system and to strengthen its efforts to bring back children to schools as well as to take measures to increase the enrolment and completion rates at primary and secondary levels and to provide information in this regard.

The Committee notes the Government's statement that since the last recorded case of Ebola in 2015, proper precautionary measures were taken and that schools were reopened and children were encouraged to return to school. The Government indicates that better mechanisms to keep children at schools and out of child labour are being initiated. In this regard, the Committee notes the information from the publication entitled: Education in Liberia-Global Partnership for Education, that in order to address the challenges in the education sector related to the rebuilding and recovery from civil war, constrained national finances, poor infrastructure and the Ebola epidemic, the Government has developed a strategic response through "Getting to Best Education Sector Plan for 2017-21". This plan consists of nine programmes including: (i) improving the efficiency and management of education system; (ii) improving access to quality early childhood education; (iii) providing quality alternative education for overage and out-of-school children; (iv) mainstreaming gender and school health across the education sector; and (v) improving the quality and relevance of vocational and technical training. The Committee notes, however, that according to the UNESCO statistics, in 2016, the net enrolment rate was 36.75 per cent in primary education and 10.37 per cent in secondary education. Moreover, there were 572,439 children and adolescents who were out-of-school in 2016. The Committee notes with **concern** the low enrolment rates at the primary and secondary levels and the high number of children who are out-of-school. **Considering that education is key in preventing the engagement of children in the worst forms of child labour, the Committee urges the Government to intensify its efforts to improve the functioning of the education system and to facilitate access of all children to free basic education, including through the "Getting to Best Education Sector Plan for 2017-21". It requests the Government to provide information on the concrete measures taken or envisaged in this regard, aimed, in particular at increasing the school enrolment and attendance rates at the primary and secondary levels and reducing school drop-out rates as well as to provide updated statistical information on the results obtained, disaggregated by age and gender.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Libya

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2017.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 106th Session, June 2017)

The Committee notes the detailed discussion which took place at the 106th Session of the Conference Committee on the Application of Standards in June 2017, concerning the application by Libya of the Convention.

Articles 3(a) and 7(1) of the Convention. All forms of slavery and practices similar to slavery. Compulsory recruitment of children for armed conflict and penalties. In its previous comments, the Committee noted from the Report on the Investigation by the Office of the United Nations High Commissioner for Human Rights on Libya (A/HRC/31/47 and A/HRC/31/CRP.3, detailed findings) of 15 February 2016 (Investigation Report by the OHCHR), that there was information on the forced recruitment and use of children in hostilities by armed groups pledging allegiance to the Islamic State in Iraq and Levant (ISIL). These children were forced to undergo religious and military training (including how to use and load guns and to aim and shoot at targets using live ammunition), watch videos of beheadings, used to detonate bombs, in addition to being sexually abused. This Report, further referring to another report, indicated that the Islamic State in Sirte welcomed the graduation of 85 boys below the age of 16, describing them as the "Khilapha Cubs" who were trained in conducting suicide attacks.

The Committee notes the observations of the IOE that the position of children affected by armed conflict in the country was deplorable and that the recruitment of children for the purpose of war which included compulsory religious and military training was a calamity for the child's present and future situation.

The Committee notes that the Government representative of Libya, during the discussion at the Conference Committee, while acknowledging the situation of severe political crisis and escalation of violence since 2011, stated that his Government, represented by the Presidency Council of the Government of National Accord had captured the last ISIL position in Sirte on 6 December 2016 and had officially declared the liberation of the city which had been under ISIL control for over one and a half years. Hence, the ISIL's practices against children, including the forcible recruitment of children into their military operations and the prohibition of children from enrolling in school was brought to an end.

The Committee also notes that at the Conference Committee, the Worker members recalled that Libya continued to suffer from armed conflict and that the proliferation of armed groups had led to serious violations and abuses including the forced recruitment and use of children by different armed groups pledging allegiance to ISIL. The Worker member of Libya, added that those children who were recruited by the armed groups were moved to camps in Turkey near the Syrian border, where they were trained for combat with the financial support of those States that supported and exported terrorism.

The Committee notes that the Conference Committee deeply deplored the situation of children who were forcibly required by armed groups pledging allegiance to ISIL to undergo military and religious training.

The Committee notes the Government's information in its report that following the expulsion of the ISIL from Sirte and its suburbs, a post-conflict stabilization plan for Sirte was developed under the supervision of the Presidency Council. Moreover, measures were taken by the Libyan security agencies under the Ministry of Interior to prevent children from being lured or groomed into criminal activity and severe punishments were imposed on persons who were involved in such activity. In addition, at the beginning of

2017, UNICEF, in collaboration with municipalities, launched a national campaign “Together for Children” to ensure that children do not get involved in armed conflict.

The Committee notes, however, from the Report of the Secretary-General on Children and Armed Conflict of 16 May 2018 (A/72/865-S/2018/465, paragraph 106) that cases of use of children by armed groups continue to be reported. In October 2017, 125 adolescents formerly associated with the armed groups in the Zintan municipality were released. The Committee further notes that the Secretary-General expressed concern at the reports of sexual violence and other violations committed against children, including use in armed conflict and trafficking of children. While noting some of the measures taken by the Government, the Committee must express its **deep concern** at the continued use and recruitment of children by armed groups and at the current situation of children affected by armed conflict in Libya, especially as it entails other violations of the rights of the child, such as abductions, murders and sexual violence. **While acknowledging the difficult situation prevailing in the country, the Committee strongly urges the Government to take the necessary measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children under 18 years of age into armed groups. It also urges the Government to continue to take immediate and effective measures to ensure that thorough investigations and prosecutions of all persons who forcibly recruit children under 18 years of age for use in armed conflict, are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to provide information on the measures taken in this regard and on the results achieved.**

Article 7(2). Effective and time-bound measures. Clause (a). Prevent the engagement of children in the worst forms of child labour. Access to free basic education. The Committee previously noted from the Investigation Report by the OHCHR, that access to education in Libya had been significantly curtailed due to the armed conflict, particularly in the east (for example, the Office for the Coordination of Humanitarian Affairs estimated, in September 2015, that 73 per cent of all schools in Benghazi were not functioning). Schools were either damaged, destroyed, occupied by internally displaced persons, converted into military or detention facilities, or were otherwise dangerous to reach. In addition, in many areas where schools remained open, parents refrained from sending their children to school for fear of injury from attacks, especially of girls being attacked, harassed or abducted by armed groups. Moreover, there were reports that in areas controlled by groups pledging allegiance to ISIL, girls were not allowed to attend school or were permitted only if wearing a full face veil. This report further indicated that children residing in camps for the internally displaced persons, faced particular challenges in their access to education.

The Committee notes the Worker members’ statement at the Conference Committee that children’s access to education had been severely limited and compromised by the conflict in Libya.

The Committee notes that the Conference Committee deeply deplored the situation of children, especially, girls, who were deprived of education due to the situation in the country where although mandatory and free education existed, many schools were damaged and used as military or detention facilities which prohibited children from attending them.

In this regard, the Committee notes the Government’s indication that following the expulsion of ISIL, there has been a rise in the number of children enrolled in schools. It also notes that the Government, along with the United Nations Development Programme, undertook the maintenance of a number of schools and by the school year 2017–18, all schools were opened on scheduled time for pupils. The Committee notes, however, from the UNICEF Humanitarian Situation report of September 2018 that around 300,000 children in Libya are in need of education. **The Committee therefore, urges the Government to take effective and time-bound measures to improve the functioning of the education system in the country and to facilitate access to free basic education for all children, particularly girls, children in areas affected by armed conflict, and internally displaced children. It requests the Government to provide information on concrete measures taken in this regard and the results achieved.**

Clause (b). Providing the necessary and appropriate assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Children in armed conflict. The Committee notes the Government’s indication that in Sirte, the Government social workers are engaged in a project to rehabilitate former child soldiers, which includes medical and psychological assistance as well as enrolling them in educational and training programmes. In addition, the UNICEF national campaign “Together for Children” also involves establishing rehabilitation centres to reintegrate children, including former child soldiers, into schools and the community. The Committee notes, however, from the Report of the Secretary-

General (paragraph 107) that in the context of the fight between the Libyan National Army (LNA) and the Petroleum Facilities Guard (PFG), boys as young 10 years of age were arrested and detained for up to seven weeks by the LNA for their alleged association with PFG. The Committee expresses its **deep concern** at the practice of arrest and detention of children for their alleged association with armed forces or groups. In this regard, the Committee must emphasize that children under the age of 18 years associated with armed groups should be treated as victims rather than offenders (see 2012 General Survey on the fundamental Conventions, paragraph 502). ***The Committee, therefore, urges the Government to take the necessary measures to ensure that children removed from armed forces or groups are treated as victims rather than offenders. It also urges the Government to continue to take effective and time-bound measures to remove children from armed forces and groups and ensure their rehabilitation and social integration. It requests the Government to provide information on the measures taken in this regard and on the number of children removed from armed forces and groups, and reintegrated.***

Noting the interest expressed by the Government representative in obtaining technical assistance, the Committee invites the Government to avail itself of technical assistance from the Office in order to facilitate the implementation of the Convention.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Madagascar

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

Previous comment

Article 1 of the Convention. National policy and application of the Convention in practice. Further to its previous comments, the Committee notes the information provided by the Government in its report concerning the results of the implementation of the “National Plan of Action against child labour in Madagascar (PNA)”, in its third and final phase from 2014 to 2019. Among other things, the PNA resulted in the revision of the decree on child labour: new Decree 2018-009 supplementing and amending Decree 2007-563 on child labour defines light work and prohibits domestic work which is dangerous for children. The PNA also enabled the training of labour inspectors on the new laws on child labour in six regions of Madagascar in 2020 in the context of the Alliance 8.7 project, in collaboration with the ILO and UNICEF. Moreover, the PNA provided for training for *fokontany* (Malagasy traditional village) chiefs to enable them to identify at-risk working children and arrange for intervention by the local protection network. The Committee also notes that, in the annual report of Madagascar for May 2020–April 2021 as an Alliance 8.7 pathfinder country, a new plan of action to combat child labour is being formulated and the Labour Code is being revised in order to, inter alia, reinforce the capacity of the labour inspectorate.

The Committee notes that, according to a baseline survey conducted in 2018 as part of the project entitled “Supporting actors in the vanilla sector for the benefit of children in the SAVA region” (SAVABE project), 16.6 per cent of children in the SAVA region were exposed to child labour. Most children work in agriculture, including 10.5 per cent in the vanilla sector and 58.6 per cent outside it. Slightly less than half the children (46 per cent) work as unpaid family members and 44.2 per cent are employed by third parties. The Committee also notes the concern expressed by the United Nations Committee on the Rights of the Child (CRC), in its concluding observations of 9 March 2022, that child labour remains a significant issue in the country, with 47 per cent of children between 5 and 17 years of age working in economic activities or domestic work, especially in rural areas, with a significant portion of children, in particular from poor households, working in hazardous conditions (CRC/C/MDG/CO/5-6, paragraph 40). ***While noting the measures taken by the Government, the Committee once again urges the Government to intensify its efforts to ensure the progressive elimination of child labour. It requests the Government***

to provide information on the measures taken in this respect in the context of the new plan of action to combat child labour and on the results achieved through its implementation, and also on progress made on the revision of the Labour Code, particularly as regards the strengthening of the capacities of the labour inspectorate.

Article 2(3). Age of completion of compulsory schooling. Further to its previous comments, the Committee notes the Government's indications that reform projects have been launched with respect to Directive 2008-011 amending certain provisions of Act No. 2004-004 of 26 July 2004 (governing the education system) in order to give concrete expression to the presidential commitments on education but that this draft legal amendment is currently before Parliament for discussion, deliberation and adoption. The publication of the decision adopted in the National Assembly will shed light on the new direction adopted for compulsory education in Madagascar, at which point it will be known whether the age of completion of compulsory schooling will be aligned to the minimum age for admission to employment or work, as required by the Convention. However, the Committee notes that according to the Sectoral Plan for Education 2018–22, it is envisaged to implement a reform of basic schooling to give it a duration of nine years, which would mean that children finish school at 15 years of age.

The Committee notes with **concern** that the question of the age of completion of compulsory schooling has still not been settled and has remained under discussion for many years. The Committee once again reminds the Government that compulsory schooling is one of the most effective means of combating child labour, and once again observes that if compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children (see [2012 General Survey on the fundamental Conventions](#), paragraph 371). This is especially important in Madagascar, where a large number of children under 15 years of age do not attend school and are working. **Noting that the Government has been discussing this matter for over ten years, the Committee once again urges the Government to take the necessary steps, as a matter of urgency, to raise the age of completion of compulsory schooling so that it coincides with the minimum age for admission to employment or work in Madagascar. It requests the Government to provide information on progress made in this regard.**

Article 6. Vocational training and apprenticeships. Further to its previous comments, the Committee notes the Government's indication that the bill on the national employment and vocational training policy (PNEFP), drawn up in collaboration with the ILO and in consultation with the social partners, is still being approved. **The Committee once again requests the Government to take the necessary measures to speed up the approval and adoption of the bill concerning apprenticeships and vocational training. It requests the Government to provide information on progress made in this regard and to send a copy of this legislative text once it has been adopted.**

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

[Previous comment](#)

Articles 3(b) and 7(1) of the Convention. Worst forms of child labour and sanctions. Child prostitution. Further to its previous comments, the Committee notes the Government's indications in its report according to which, in view of the increase in child sex tourism (CST), various types of action have been taken by the Ministry of Tourism for its elimination, including various awareness-raising measures, the establishment of a unit to combat tourist scourges within the Ministry of Tourism and the promotion and implementation of a Code of Conduct for tourism actors. The Government indicates that specific results have been achieved as a result of the dissemination of the Code of Conduct to the various actors in the tourism sector. These include surveys undertaken in 736 establishments between November 2019 and March 2020, in collaboration with youth associations and local universities in the five areas (Nosybe, Tuléar, Majunga, Tamatave and Fort Dauphin). The Government adds that measures have been taken

within the framework of the Alliance 8.7 project, including the monitoring, awareness raising and protection of children from child prostitution and the commercial sexual exploitation of children (CSEC) in the Atsimo Andrefana region in 2019, in collaboration with the Ministry of Tourism to raise awareness of sex tourism and CSEC and enrol victims in schools.

While noting the measures taken by the Government, the Committee notes the Government's indication that, not only has there been no follow-up to its request for data on the number of investigations carried out, prosecutions, convictions and penal sanctions imposed in cases of child prostitution in Madagascar, but establishments where cases of CST have been identified appear to have been subject only to *administrative* penalties. Moreover, the Government has not indicated the number of inspections carried out by youth and university associations. The Committee further notes the concern expressed by the United Nations Committee on the Rights of the Child on 9 March 2020 in response to reports that the sexual exploitation of children is widespread and tolerated in Madagascar, especially in tourist destinations (CRC/C/MDG/CO/5-6, paragraph 24). The Committee therefore once again notes with **deep concern** that there still appears to be a prevailing climate of impunity for crimes relating to child prostitution in the country. With regard to penalties, it refers to its indications in its [2012 General Survey on the fundamental Conventions](#) (paragraphs 637–639). ***The Committee therefore once again urges the Government to take immediate measures to ensure that effective investigations and prosecutions are carried out and completed into persons suspected of procuring, using, offering and employing children for prostitution, and that sufficiently effective and dissuasive penalties are imposed. It requests the Government to provide information on statistics covering the number and nature of the violations reported, investigations, prosecutions, convictions and criminal penalties imposed in this respect.***

Articles 3(d) and 7(2)(a) and (b). Hazardous types of work and effective and time-bound measures. Children engaged in hazardous work in the agricultural sector. Supporting Vanilla Sector Stakeholders to Benefit Children in the SAVA region (the SAVABE project). The Committee notes that the SAVABE project, which aims to achieve a sustainable improvement in the living conditions of vanilla-producing communities by ensuring the absence of child labour, was implemented by the ILO in the SAVA region between 2016 and 2020. The components of the project included the reduction of child labour through the mobilization and involvement of exporters in supply chain policies and programmes and the strengthening of the enforcement of child labour laws and referral and shelter systems for the protection of children. Within the context of this project, a baseline survey was undertaken in 2018. The Committee notes with **concern** that this survey revealed that 16.6 per cent of children in the region were exposed to child labour, of whom 67.1 per cent, representing 11.1 per cent of all children in the regions concerned, were engaged in work considered to be hazardous. Over half (51.6 per cent) of children considered to be engaged in hazardous forms of work were in the agricultural sector (other than vanilla) and 15.2 per cent were in the vanilla sector. The great majority of children engaged in hazardous forms of work (75.3 per cent) were classified as such on the basis of their conditions of work. Almost half of the children (45.1 per cent) worked long hours. Boys were more numerous than girls in hazardous forms of work (17.9 per cent compared with 8.7 per cent).

The Committee notes that the SAVABE project has resulted in several achievements. In particular, it notes the renewed dynamic, restructuring, training and equipment of the Regional Committee to Combat Child Labour in the SAVA region and the establishment of 27 local committees to combat child labour. ***While noting the measures adopted, the Committee requests the Government to strengthen its efforts to prevent children from being engaged in hazardous types of work in agriculture, including in the vanilla sector, and to remove children who are already working there and ensure their social rehabilitation and integration. It also requests the Government to continue providing information on the measures adopted in this regard and the results obtained in terms of the number of children identified and removed from hazardous types of work in these sectors, including through the action of the local committees.***

Article 5. Monitoring mechanisms. Labour inspection. In its previous comments, the Committee noted that the Conference Committee on the Application of Standards had recommended the Government to take measures to improve the capacities of the labour inspection services, particularly to combat child labour in mines and quarries. The Committee notes that, within the framework of the European Union Trade for Decent Work (T4DW) project, of which Madagascar is one of the beneficiaries, 40 labour inspectors were trained in 2021 and 2022 on child labour in the mining sector, a practical guide for the use of labour inspectors was prepared on controlling child labour, and support was provided for the development of an overall strategic action plan for labour inspection, which envisages the strengthening of inspections in enterprises. The Committee also notes the Government's indication that, in the context of the Alliance 8.7 project, the capacities of the labour inspection services are being reinforced through the provision of the necessary resources for monitoring as a basis for the adoption of prevention and protection measures. To overcome the absence of certain working tools, the means of action of labour inspectors have been strengthened, particularly through the provision of information and communication equipment. The Government adds that measures have been taken to enable the labour inspection services to have access to difficult sites in several regions and sectors, including brick making, tourist areas and mines and quarries. The Committee further notes that, according to the annual report of Alliance 8.7 pathfinder countries for May 2020 to April 2021 of Madagascar, the reinforcement of the powers of labour inspectors is envisaged through a revision of the Labour Code, which was commenced in February 2021. ***The Committee encourages the Government to continue taking the necessary measures to improve the capacities of the labour inspection services, particularly through the provisions of the necessary resources to enable labour inspectors to have access to difficult sites, especially mines and quarries, so that they can take effective action to combat the worst forms of child labour. It requests the Government to provide information on the measures adopted in this regard and on the number of children engaged in the worst forms of child labour who have been identified by labour inspectors as a result. The Government is also requested to report on progress in the revision of the Labour Code.***

Article 6. Programmes of action. Joint National Plan to Combat Child Labour in the Mica Sector (PNC). The Committee notes that the Ministries of Labour, Population and Mines have joined efforts for the formulation of a Joint National Plan, with support from the ILO, the United Nations Development Programme (UNDP) and UNICEF, and other technical partners, within the framework of the T4DW project, of which Madagascar is one of the beneficiaries. According to the report on the action proposed in five African projects under the T4DW project in 2021, the Government confirmed that child labour in mica mines is a scourge in the country. The PNC therefore targets: (i) the formalization of small-scale mining activities in the region; (ii) the involvement of the private sector in action to combat child labour; (iii) education, awareness raising and communication to change behaviour concerning the problem of children and the community; (iv) the reinforcement of the child protection system; (v) the establishment of a social protection programme to remove children from the worst forms of child labour; and (vi) the strengthening of the resilience of communities in mica mining areas through economic diversification. The Committee also notes that, within the framework of the T4DW project, a qualitative study is being undertaken of child labour in the mica sector. ***The Committee encourages the Government to reinforce its efforts to combat the worst forms of child labour in mines and quarries, including mica mines. In this regard, it requests the Government to provide information on the specific measures taken within the framework of the implementation of the PNC to combat child labour in the mica sector, and on the results achieved in eliminating the worst forms of child labour in this sector. It also requests the Government to provide the findings of the study on child labour in the mica sector when it has been completed.***

Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. Street children. Further to its previous comments, the Committee notes the Government's indication that the Public Investment Programme for Social Action (PIP) has been withdrawn from the public finance heading and

reassigned to the operating budget of the Department for Labour and the Promotion of Fundamental Rights (DTPDF). The Government adds that the Manjarysoa Centre has been established to combat the worst forms of child labour around 67 Ha (a settlement located in Antananarivo). During 2019–20, some 70 children were protected by the Centre and have benefited from school and vocational integration activities. ***The Committee requests the Government to renew its efforts to protect street children from the worst forms of child labour and to ensure their rehabilitation and social integration, particularly through the reintegration of the PIP in the budget of the DTPDF. It requests the Government to continue providing information on the number of street children who have benefited from school and vocational rehabilitation through the Manjarysoa Centre or any other centre established for this purpose.***

The Committee is raising other matters in a request addressed directly to the Government.

Malawi

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Previous comment

Article 1 of the Convention. National policy. Following its previous comments, the Committee notes with **interest** the many measures adopted by the Government to combat child labour in the country. The Government has reviewed the National Plan of Action (NAP II), which now runs from 2020 to 2025. The main priority areas of the NAP II are: (i) Legal and Policy Framework; (ii) Capacity Building; (iii) Awareness Raising; (iv) Prevention, Withdrawal, Rehabilitation and re-Integration; (v) Chronic Illnesses and HIV and AIDS in the context of Child Labour; (vi) Child Labour Information Base and Management; and (vii) Availability of Child Labour Information.

The Government also developed the National Child Labour Mainstreaming Guide, which aims to assist Government institutions, social partners and other key stakeholders on how to include child labour issues in their functional scope and programming. The expected outcomes are: (i) Child labour elimination strategies incorporated in key legal and policy documents; (ii) Enhanced child labour responsive planning and service delivery; and (iii) Enhanced multi-sectoral collaboration in addressing child labour. The guide is aligned with the NAP II and directly supports its priority areas.

Another initiative is the adoption by the Government of the National Advocacy and Communication Strategy (NACS) 2022, to reinstate the commitment of the authorities in terms of support to the implementation of the child labour Conventions and provide a conducive environment for combating child labour. The overall objective of the NACS is to ensure well-coordinated and effective advocacy and awareness of child labour to accelerate its elimination through, for example, advocacy for child labour legislation and policy improvement and lobbying of the Government and stakeholders for increased resource allocation towards child labour programmes.

Finally, the Committee also notes that a Decent Work Country Programme (DWCP) 2020-23 is being implemented in Malawi, the overall objective of which is to contribute to the achievement of the national development agenda through improved, gainful, secure, and rights-based employment for youth, women and men. Consequently, the DWCP 2020-23 should contribute to the elimination of child labour by mitigating some of the push factors that are inducing children to work (such as poverty or lack of decent work opportunities for their families). ***The Committee encourages the Government to continue taking the necessary measures to ensure the progressive elimination of child labour. It requests the Government to provide information on the progress made and results achieved, in particular in terms of the effective reduction of the prevalence of child labour.***

Article 2(1). Scope of application. Self-employed children, children working in the informal economy and labour inspectorate. Following its previous comments, the Committee notes the Government's indication

that the labour inspections referred to under section 9 of the Employment Act may be conducted at any place where people are working, including in the informal economy, and that the exclusion of that sector is due, rather, to administrative reasons, including challenges related to human and financial resources.

However, measures are being taken to strengthen the labour inspectorate, including the Ministry of Labour entering into MOUs with some employers, especially in the tobacco sector, to conduct independent labour inspections to identify labour-related issues, including child labour. The Committee further notes that certain activities are planned, in the framework of the NAP II, to further strengthen the labour inspectorate and expand its reach, including the review of legislation related to child labour to ensure that all workplaces including informal sector are eligible for inspection and the extension of labour inspection services to monitor child labour in the informal sector and private homes. ***The Committee strongly encourages the Government to continue its efforts to strengthen the capacity of the labour inspectorate – including in the framework of the NPA II, of the MOUs entered into with employers, and through the provision of appropriate human and financial resources – to ensure that all self-employed children or children working in the informal economy benefit from the protection of the Convention. It requests the Government to continue providing information on specific measures taken in this regard, as well as on the results achieved, including the number and nature of violations relating to the employment of children and young persons detected by the labour inspectorate.***

Article 3(1). 1. Minimum age for admission to hazardous work. In its previous comments, the Committee noted a discrepancy between article 23 of the Constitution, which provides for protection from dangerous work for children below the age of 16 years, and section 22(1) of the Employment Act, which, in accordance with the Convention, lays down a minimum age of 18 years for work that is likely to be harmful to their health, safety, education, morals or development, or prejudicial to their attendance in school. The Committee notes with **satisfaction** that a constitutional amendment was adopted which establishes the minimum age for admission to hazardous work at 18 years under article 23.

2. Hazardous work in commercial agriculture. The Committee takes due note of the Government's detailed information regarding the activities implemented and results achieved regarding the use of hazardous child labour in commercial agriculture. ***With regard to the measures taken and results achieved to protect children under 18 years from hazardous work in commercial agriculture, in particular tobacco plantations, the Committee refers to its comments under the Worst Forms of Child Labour Convention, 1999 (No. 182).***

Article 9(3). Keeping of registers by employers. Following its previous comments, the Committee notes the Government's indication that it has planned to develop the model register of employment, in line with *Article 9(3)* of the Convention, before the end of 2022, with the support of the ILO. ***Observing that the Government has been referring to the model register of employment since 2006, the Committee once again strongly urges the Government to take the necessary measures to ensure its elaboration and adoption without delay. It once again requests that the Government supply a copy of the model register as soon as it is adopted.***

Practical application of the Convention. Data on child labour. The Committee notes that, according to the document of the NAP II, while child labour surveys are supposed to be conducted every 4–5 years, only two were conducted in the country: the first one in 2002, and the follow-up survey of 2015, which revealed that 38 per cent (over 2.1 million) of children aged 5–17 years were involved in child labour. To remedy this gap, and to contribute to the effective monitoring of the progress made in eliminating child labour, one of the main objectives of the NAP II is to improve child labour information availability and accessibility. Measures planned to achieve this objective include building the capacity of District Labour Officers (DLOs) to collect, manage and analyse data on child labour, conduct a national child labour survey, and create a national database for child labour. ***The Committee encourages the Government to pursue its efforts aimed at monitoring the application of the Convention in practice through the***

development of a data collection system on child labour and requests it to provide information on the progress made in this regard. It expresses the hope that the national child labour survey to be conducted in the framework of the NAP II will contain up-to-date statistical data on the employment of children and young persons by age group, gender and sector, and requests the Government to communicate the results of the survey with its next report.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 1999)

Previous comment

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. Tenancy system. The Committee notes with **satisfaction** that the Employment Act was amended in 2021 to prohibit the land tenancy labour system, which was one of the main causes of leading children to work in hazardous conditions in tobacco plantations. In accordance with the new section 4 of the Employment Act, any person who exacts or imposes forced or tenancy labour on another person or causes or permits another person to perform forced or tenancy labour, commits an offence which is punishable by a fine of five million Kwacha (approximately US\$5,000) and imprisonment for five years. **The Committee requests the Government to provide information on the application in practice of section 4 of the Employment Act, in particular the number of prosecutions, convictions and penalties applied in relation to children under the age of 18 years.**

Articles 3(a) and 7(1). Worst forms of child labour and penalties. Sale and trafficking of children. Following its previous comments, the Committee notes the Government's indication in its report that its statistics on the application of the Trafficking in Persons Act No. 3 of 2015, which criminalizes and punishes the offences related to trafficking, including of children, are not currently disaggregated by age. The Committee notes that, according to the report of the Government under the Forced Labour Convention, 1930 (No. 29), from January 2020 until August 2022, 55 cases of trafficking were prosecuted, out of which 36 are completed with 27 ending up in convictions and 8 in acquittals. The Government indicates that the cases will be disaggregated by age going forward. **The Committee requests the Government to take the necessary measures to ensure that data on the application in practice of the Trafficking in Persons Act is disaggregated by age, in particular with regard to the number and nature of violations reported, investigations, prosecutions, convictions and penal sanctions imposed for the sale and trafficking of children under 18 years of age. It requests the Government to provide this information in its next report.**

Article 3(b). Use, procuring or offering of a child for prostitution. In its previous comments, the Committee noted the various provisions of the Penal Code of 1930, as amended by Act No. 9 of 1999, establishing offences related to the procuring or offering of a girl or woman, or the indecent assault of boys under the age of 15 (sections 140 and following). However, the Committee noted that there appeared to be no provision criminalizing the use of a child by a client for prostitution and, furthermore, there were no provisions that protect boys aged 15 to 18 years from the use, procuring or offering for prostitution.

The Committee notes that the Government gives no new information on this issue. Therefore, it appears that these practices are still not explicitly prohibited by law. The Committee considers that the effective prohibition and penalization of the use of all children – both boys and girls – for commercial sexual exploitation, including for use in prostitution, is not only required by *Article 3(b)* of the Convention, but also an essential component of any strategy undertaken to effectively eradicate this scourge. **The Committee therefore once again urges the Government to take the necessary measures to ensure the protection of boys between 15 to 18 years from commercial sexual exploitation, as well as to criminalize clients who use children – either girls or boys – under 18 years of age for prostitution. It also urges the Government to take the necessary measures to ensure that thorough investigations and**

prosecutions are carried out against persons responsible for such offences and that effective and sufficiently dissuasive penalties are imposed in practice.

Article 7(2)(a) and (b). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and providing assistance for the removal of children from these types of work and for their rehabilitation and social integration. 1. Commercial sexual exploitation of children. Following its previous comments, the Committee notes the Government's information on the measures taken to prevent both boys and girls under the age of 18 from becoming victims of commercial sexual exploitation, as well as on the measures taken to rehabilitate the victims. Such measures include child participation activities where girls are encouraged to take on leading roles; the creation of a forum for girls to express their views and promote their rights; various educational measures; and interventions to protect children with special attention on the girl child to prevent sexual exploitation and keep them in school. The Government has also put in place Lakeside committees that are protecting children, with much focus on girls under the age of 18, from patronizing lakeside activities which expose them to sexual exploitation through sensitization meetings and campaigns. The Government also indicates that section 23 (2)(c) of the Child Care Protection and Justice Act identifies children in situations of sexual exploitation as situation requiring care and protection. In this regard, the Government provides rehabilitation services to survivors of various abuses, including sexual exploitation. The Government indicates that it has rehabilitated 12,530 children (11,999 girls and 534 boys). ***Taking due note of the measures taken by the Government, the Committee encourages it to continue its efforts aimed at protecting children – both girls and boys – under 18 years of age against commercial sexual exploitation. It requests the Government to continue providing information on the measures taken to rehabilitate and socially integrate child victims, and on the results achieved.***

2. Children engaged in hazardous work in commercial agriculture, particularly tobacco estates. Following its previous comments, the Committee notes the Government's detailed information on the activities conducted to combat hazardous work in agriculture, in particular tobacco production, in its reports under Conventions No. 138 and No. 182. In particular, the Committee takes due note of the activities implemented and results achieved by the National Smallholder Farmer's Association of Malawi (NASFAM) under the Achieving Reduction of Child Labour in Support of Education (ARISE) programme, and by the Tobacco Association of Malawi (TAMA) Farmer's trust. These include: (i) various trainings and awareness-raising campaigns on child labour, including in supply chains, for farmers; (ii) MOUs with tobacco companies which aim to protect children engaging in hazardous work in commercial agriculture, especially in tobacco; (iii) the adoption, dissemination and implementation of a Child Labour Policy by TAMA; and (iv) the implementation of projects (such as the "knowledgeable farmer" project) to promote the use of social dialogue in child labour elimination at the local level. Positive results were achieved, including the mainstreaming of child labour issues and knowledge even at community level and the re-enrolment of children in school.

The Committee notes that the Government continues to work with social and development partners, including the ILO, in protecting children from worst forms of child labour in agriculture. The 2020–24 project to Address Decent Work Deficits in the Tobacco Sector in Malawi (ADDRESS), for example, which is the umbrella for ILO development cooperation projects touching upon the tobacco sector, is being implemented with several partners, including the tripartite constituents and civil society organizations, to ensure that they effectively address decent work deficits in this sector and ensure access to rights. Other projects include Accelerating action for the elimination of child labour in supply chains in Africa (ACCEL), which aims to improve policy, legal and institutional frameworks to address child labour and its root causes in global supply chains by institutionalizing innovative and evidence-based solutions.

Moreover, in the framework of these and other projects, Malawi authorities requested and contributed to the collection of relevant data on the issues concerned to fill existing knowledge gaps and develop appropriate responses. For instance, a qualitative study on the tenancy system, conducted

with the support of the ILO in 2020, led to the identification of the key issues and contributed to the national dialogue around the abolition of the land tenancy system by the Government. A quantitative study is also being finalized in collaboration with the National Statistical Office (NSO), to assess the number and characteristics of tenants in tobacco at the national level.

The Committee therefore observes with **interest** that action is being taken to combat the worst forms of child labour in the agricultural sector, in particular tobacco plantations, through a multi-pronged and tailored approach addressing the root causes of child labour in this sector. ***The Committee strongly encourages the Government to continue its efforts to protect children from hazardous work in these sectors, in particular in tobacco plantations, through measures taken within the framework of the various ongoing projects and initiatives. It requests the Government to continue to provide concrete information on the number of children who have been prevented or withdrawn from engaging in this type of hazardous work, and then rehabilitated and socially integrated.***

The Committee is raising other matters in a request addressed directly to the Government.

Malaysia

Minimum Age Convention, 1973 (No. 138) (ratification: 1997)

Previous comment

*Article 3(2) of the Convention. Determination of hazardous work. **With regard to the determination of types of hazardous work prohibited to children under the age of 18 years, the Committee requests the Government to refer to its detailed comments under the Worst Forms of Child Labour Convention, 1999 (No. 182).***

Article 7(1). Minimum age for admission to light work. The Committee previously noted that section 2(2)(a) of the Children and Young Persons (Employment) Act of 1966 (CYP Act) allows children to be employed in light work which is suitable to their capacity in any undertaking carried on by their family but observed that no minimum age for admission to light work had been specified.

The Committee notes with **satisfaction** that section 3(c)(2A) of the CYP Amendment Act of 2019 establishes a minimum age of 13 years for admission to light work. The Committee also notes that the CYP Amendment Act, 2019 defines light work as “any work performed by a child or young person which is not likely to be harmful to their health, mental or physical capacity; or to prejudice his/her attendance at school that includes any place which teaches any religion, his/her participation in vocational orientation or training programmes approved by the competent authority or his capacity to benefit from the instruction received.”

Article 9(1). Penalties, labour inspection and application of the Convention in practice. In reply to its previous comments, the Committee notes the Government's indication that the penalties provided under section 14 of the CYP Act of 1966 for the violations of any of its provisions have been enhanced by the CYP Amendment Act of 2019. Accordingly, any contravention of the provisions of the Act shall be punishable with imprisonment not exceeding two years or to a fine of RM50,000 (approximately US\$10,555) or to both. In the event of a second or subsequent offence, the penalty shall be imprisonment not exceeding five years and/or a fine not exceeding RM100,000. With regard to the number of prosecutions carried out, the Government indicates that 21 cases were prosecuted under the CYP Act of 1966, whereby the majority of the cases related to the contravention of the hours of work, but provides no information on the results of these prosecutions or penalties imposed. The Committee also notes the Government's information that in order to promote awareness towards eliminating child labour, the Ministry of Human Resources has established Technical Working Groups in the plantation sector that provide guidance on the national legislation and policies on child labour as well as on dealing with labour issues so as to ensure compliance with the relevant laws and policies.

The Committee further notes that a facilitator's manual for Malaysian labour inspectors, entitled: *Training for Malaysian inspectors on forced labour, child labour and gender-based discrimination, violence and harassment in the workplace: Facilitator's manual*, was developed and published in 2022, within the framework of the ILO project, "From Protocol to Practice: A Bridge to Global Action on Forced Labour". This manual aims at improving the capacity of the labour inspectorate to respond to the most urgent needs for the protection of workers' rights, particularly on forced labour and child labour and provides suggestions to address the challenges in conducting inspection on child labour. According to this document, child labour is common in the informal economy and includes scavenging, begging, mobile vending, work in small-scale or home-based industries and domestic work. Moreover, according to the information from the 2018 Employment survey in oil Palm plantations, as referred in this document, 33,600 children aged 5 to 17 years are in child labour on oil palm plantations in Malaysia, with 58.8 per cent in Sabah and 39.5 per cent in Sarawak, of which an estimated 47.5 per cent are children aged 5–11 years and 30.9 per cent are children aged 15–17 years (pages 83 and 87). The Committee further notes from a Press release of ILO of 25 June 2020 wherein the ILO and the UNICEF urged Malaysia to tackle child labour which has increased due to COVID-19 situation. ***The Committee requests the Government to continue its efforts to strengthen the capacity of the labour inspectorate to better monitor child labour, particularly in the oil palm plantations in Sabah and Sarawak and to provide information on the measures taken and the results achieved in this regard. It also requests the Government to continue to take the necessary measures to ensure that persons who violate the CYP Act and other related legislation on the employment of children, are prosecuted and that sufficiently effective and dissuasive penalties are imposed, and to provide information on the nature of the violations found, and the number and nature of the penalties imposed including, for fines assessed, and the amounts actually collected. Lastly, it requests the Government to provide information on the situation of working children, including data on the number of children and young persons below the minimum age of 15 who are engaged in child labour, and information on the nature, scope and trends of their work. To the extent possible, this information should be disaggregated by age and gender.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Previous comments: [observation C182](#); [observation C138](#)

Article 4(1) of the Convention. Determination of types of hazardous work. In its previous comments under the Minimum Age Convention, 1973 (No.138), the Committee noted that the Department of Occupational Safety and Health had developed a list of types of hazardous work prohibited to persons under the age of 18 years and that it was undergoing legal process for enactment.

The Committee notes the Government's information in its report that the Children and Young Persons (Employment) Act of 1966 was amended by the Children and Young Persons (Employment) (Amendment) Act of 2019 (CYP Amendment Act of 2019). It notes that section 3(b)(1A) of the CYP Amendment Act of 2019 prohibits the employment of children and young persons under the age of 18 years in hazardous work. The Committee notes with **satisfaction** that the Fourth Schedule of the CYP Amendment Act of 2019 lists over 25 types of hazardous work prohibited to children and young persons. This list includes: work related to machines, installations and other equipment; work conducted in hazardous environments, such as underground work, underwater or work in a confined space, work at heights, in dusty environments, in extreme weather conditions, manual handling, lifting, carrying or pushing heavy load; work that is exposed to biological hazards such as in laboratories, slaughterhouse, meat processing place or storages; construction work, work in the timber industry, petroleum platforms; and work as a lifeguard, in fishing activities, and work in water treatment plants. It also notes that section 3(c)(2B) of the CYP Amendment Act of 2019 prohibits children and young persons from engaging in employment specified in the Fifth Schedule of CYP Amendment Act of 2019 which contain seven activities, including engaging in prostitution or any work related to pornography, the production

or sale of alcoholic beverages, lotteries and gambling activities, and for the production and trade of drugs and narcotics. ***The Committee requests the Government to provide information on the application in practice of sections 3(b)(1A) and 3(c)(2B) of the CYP Amendment Act of 2019, indicating the number and nature of violations reported and penalties imposed for the offences related to the employment of children under 18 years in the hazardous occupations listed under the Fourth and Fifth Schedule.***

Articles 3(a), 5 and 7(1). Worst forms of child labour, monitoring mechanisms and penalties. Trafficking. The Committee notes that the Government has not provided any specific information concerning the investigations, prosecutions and penalties applied for the offences related to the trafficking of children. Nevertheless, it states that the Anti-Trafficking in Persons and Anti-Smuggling of Migrants (ATIPSOM) Act of 2007 has been amended through the insertion of a new provision under section 14 (offence of trafficking in children) to specifically state that there is no need to prove the “means” element in child trafficking cases. With regard to its previous comments concerning the measures taken by the Task Force on Anti-Trafficking in Persons and Anti-Smuggling of Migrants (ATIPSOM Task Force) to prevent trafficking of children under the age of 18 years, the Government states that it provides intelligence and information to all enforcement agencies under the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (MAPO). Moreover, according to the data provided by the Government, from 2019 to 2022, 57 child victims of trafficking, including 4 nationals, were identified by the ATIPSOM Task Force.

The Committee further notes from the Report of the United Nations Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material of January 2019 that the scope and magnitude of the sale and trafficking of children across the borders with Thailand, Viet Nam, Indonesia and the Philippines and within Malaysia for purposes of sexual and labour exploitation is an issue of grave concern. This report further indicates that in practice, child trafficking cases and statistics on convictions are not separated from other human trafficking cases (A/HRC/40/51/Add.3, paragraph 8). ***The Committee therefore once again urges the Government to take the necessary measures to ensure that, in practice, thorough investigations and prosecutions are carried out for persons who engage in the trafficking of children, and that sufficiently effective and dissuasive sanctions are imposed. In this regard, the Committee once again requests the Government to provide information on the number of cases of trafficking of children under the age of 18 years identified, including by the ATIPSOM Task Force, and the investigations, prosecutions, convictions and penal sanctions applied in accordance with the provisions of the ATIPSOM Act.***

Articles 5 and 7(2)(a) and (d). Monitoring mechanisms and effective and time-bound measures. Access to free basic education and identifying and reaching out to children at special risk. Migrant children. In its previous comments, the Committee noted that tens of thousands of migrant workers’ children worked in the palm oil plantations without regulated employment hours, as well as in family food businesses, night markets, small-scale industries, fishing, agriculture and catering. It noted that children of migrant workers, particularly children of Indonesian workers face particular challenges accessing education, as non-nationals are prevented from accessing public education.

In response to its previous comments, the Committee notes the Government’s information that the findings of the Employment Survey in oil palm plantations carried out in 2018 by the Ministry of Plantation Industries and Commodities in collaboration with the ILO, indicates the existence of forced and child labour in the plantation sector with 8.3 per cent of children involved in hazardous work. The Government states that it is committed to eliminate and combat forced and child labour in the country and that various initiatives have been taken in this regard, including: (i) making amendments to the Children and Young Persons (Employment) Act; (ii) strengthening of the labour inspection system in order to protect children of migrant workers and carrying out regular labour inspections in the plantation sector; (iii) carrying out information and dialogue sessions for employers in the plantation sector on their rights and responsibilities, on the best labour practices to prevent forced and child

labour, on mechanization and safety issues; and (iv) establishing Technical Working Groups to address child labour issues and to provide guidance on national legislations and policies on child labour.

With regard to access to education of non-citizen children, the Government indicates that they are allowed to access education in the government or government-aided schools if they meet the criteria and conditions set under the Education Act. The Government has created guidelines for alternative learning centres and has encouraged the initiatives by the private sector and NGOS to provide education for children of migrant workers working in plantations as well as for children who are not eligible to be admitted to formal education. In addition, the Government has facilitated the establishment of community learning centres (CLCs) in the plantations in Sabah and Sarawak, in a collaborative effort by the plantation owners and the Indonesian Embassy. The CLCs provides primary and lower secondary education which is run in Indonesian national curriculum. The Committee notes the Government's indication that as of 2022 there are 112 CLCs in Sabah (86) and Sarawak (16) which accommodate more than 9,500 children.

The Committee further notes from the ILO Press release of October 2022 that 34 labour officers of the Sabah Department of Labour were trained and equipped with information and techniques utilizing the ILO Facilitator's Manual: Training for Malaysian inspectors on forced labour, child labour and gender-based discrimination, violence and harassment in the workplace. This Press release indicates that more frequent inspections will be undertaken by these inspectors to ensure that the employers are compliant with all laws and policies pertaining to labour. ***Noting that 8.3 per cent of children are involved in hazardous work in the palm oil plantations, the Committee urges the Government to continue its efforts to protect children of migrant workers from engaging in the worst forms of child labour, particularly by ensuring their unreserved access to quality free basic education. It also requests the Government to continue to take the necessary measures to strengthen the labour inspection system to effectively monitor the implementation of labour laws so as to receive, investigate and address complaints of alleged violations of the worst forms of child labour. The Committee requests the Government to provide information on the measures taken in this regard, as well as information on the number of children identified and withdrawn from hazardous work in the plantation sector and provided with education.***

Articles 6 and 7(2). Programmes of action and effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and removing them from these worst forms and ensuring their rehabilitation and social integration. Trafficking. The Committee notes the Government's information that it has launched the third five-year National Action Plan on Trafficking in Persons (NAPTIP 3.0) 2021–25. It notes from the NAPTIP document that this national action plan focuses on nine programme areas with specific objectives, including combating child trafficking and providing victim-centred protection and assistance to victims of trafficking. This document also indicates that the Minister of Home Affairs provided funding support for three shelters for victims of trafficking and appointed three Victims Assistance Specialists (VAS) to carry out a 12-month pilot project in March 2019. This project was implemented to improve support services by assisting victims from the point of rescue, through the process of the criminal justice system and right up to repatriation, as well as to assist the enforcement officers and prosecutors in victim engagement and communication. During the 12-month pilot project, the VASs provided support services to a total of 72 victims. This project was further extended until March 2022. ***The Committee encourages the Government to strengthen its measures, within the framework of the National Action Plan to Combat Trafficking in Persons, 2021-25, to prevent trafficking of children under the age of 18 years, and provide for their removal from such situations and subsequent rehabilitation and social integration. It requests the Government to provide information on the concrete measures taken in this regard and on the results achieved in terms of the number of children reached through such measures.***

The Committee is raising other matters in a request addressed directly to the Government.

Mali

Minimum Age Convention, 1973 (No. 138) (ratification: 2002)

Previous comment

Article 1 of the Convention. National policy and application of the Convention in practice. Further to its previous comments, the Committee takes due note of the information in the Government's report that a new National Plan of Action for the Elimination of Child Labour in Mali (PANETEM II) 2023–2027 is being approved and would be implemented in January 2023. It was developed by the National Steering Committee Against Child Labour and the National Unit Against Child Labour (CNLTE) in cooperation with the ILO. In this regard, four regional consultations have been held in Bamako, Sikasso, Kaye and the Mopti region to review the results of PANETEM I and to integrate the concerns of each region into the future plan.

The Committee also take due note of the information in the CNLTE's 2021 national report, annexed to the Government's report, that various activities have been carried out, including awareness-raising and planning relating to child labour, as well as the establishment of the SOSTEM data collection tool for monitoring child labour and children at risk in the Kénédiéba region. It also notes the results achieved through the CNLTE focal points, including: (1) the removal from labour and reintegration of 150 children through the Clear Cotton programme in the Sikasso region; (2) the reception, referral and reintegration of 291 children in the Gao region, through the Stop Child Labour/ZLTTE project; and (3) the removal from labour and reintegration of 380 boys and 357 girls in the regions of Djenné, Mopti and Bankass. ***The Committee encourages the Government to continue its efforts to ensure the progressive elimination of child labour. It requests the Government to provide information on the measures being implemented as part of PANETEM II. It also requests the Government to provide information on the results achieved in monitoring child labour and children at risk through the SOSTEM data collection tool.***

Article 2(1). 1. Scope of application and labour inspection. In its previous comments, the Committee noted that no measures have been taken to enable labour inspectors to target children working on their own account or in the informal economy.

The Committee notes the Government's indication that inspections by labour inspectors in coordination with CNLTE focal points are focused primarily on gold washing sites and areas with a high level of agricultural activity. ***The Committee strongly encourages the Government to redouble its efforts to strengthen the labour inspection services to ensure that all children receive the protection provided for by the Convention. It requests the Government to provide information on the results achieved, including the number of identified cases of children engaged in gold washing and agricultural activities, and the penalties imposed for violations.***

2. *Minimum age for admission to employment or work.* Further to its previous comments, the Committee notes Decree No. 2022-0125/PT-RM of 4 March 2022, amending certain provisions of Decree No. 96-178/P-RM of 13 June 1996 on the implementation of the Labour Code. In this regard, the Committee notes with **satisfaction** the review of section D.189-23 of the Labour Code, setting out the list of loads for children, raising the minimum age from 14 to 15 years for children who cannot carry, drag or push a load, depending on the type of transport, weight of the load and sex of the child. This amendment is in line with the minimum age in section 20(b) of the Child Protection Code, in conformity with the minimum age of 15 years stated by the Government on the occasion of the ratification of the Convention.

Article 3(3). Admission to hazardous types of work from the age of 16 years. In its previous comments, the Committee emphasized that section D.189-33 of Decree No. 96-178/P-RM did not set forth the obligation to ensure that young persons between the ages of 16 and 18 years engaged in hazardous

types of work have received adequate specific instruction or vocational training in the relevant branch of activity, as provided for in *Article 3(3)* of the Convention.

The Committee notes that the new Decree No. 2022-0125/PT-RM amending certain provisions of Decree No. 96-178/P-RM of 13 June 1996, on the terms and conditions of application of the Labour Code relating to hazardous types of work from the age of 16 years, is still not in conformity with the conditions set forth in *Article 3(3)* of the Convention. ***The Committee requests the Government to take measures to ensure that the provisions of the Labour Code concerning admission to hazardous types of work from the age of 16 years are brought into conformity with the conditions set forth in Article 3(3) of the Convention. It requests the Government to provide a copy of the texts when they have been adopted.***

Article 7. Light work. In its previous comments, the Committee noted that the Government planned to amend section 189-35 of Decree No. 96-178/P-RM of 13 June 1996 so as to raise the minimum age for domestic work and light work of a seasonal nature from 12 to 13 years. The Committee notes with **regret** that no amendment has been made to section 189-35 in new Decree No. 2022-0125/PT-RM on the minimum age of 12 years for light work.

The Committee notes that according to the Government's information, a draft decree, prepared by the labour services and submitted to the social partners, is in the process of being adopted. The Government also indicates that the process is under way to draw up a list of light work with a view to determining types of light work and the conditions under which they are carried out, in cooperation with the ILO. ***The Committee expresses the hope that the decree in the process of being adopted on the application of the Labour Code will be aligned with the Convention in order to regulate the employment of children in light work from the age of 13 years. It requests the Government to provide a copy of the decree and the list of light work when they are adopted.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Previous comment

Articles 3(a) and 7(1) of the Convention. All forms of slavery or practices similar to slavery. 1. Compulsory recruitment of children in armed conflict. Further to its previous comments, the Committee notes the absence of information in the Government's report concerning the compulsory recruitment of children in armed conflict.

In this regard, the Committee notes the information in the Global Protection Cluster Annual Report 2021, regarding an increase in child trafficking, forced labour and compulsory recruitment by armed groups in Mali, as a result of the conflict, insecurity, the COVID-19 pandemic and the deterioration in socio-economic conditions. The report indicates that armed groups also engage in trafficking children for gold panning and that other children are forced to fight within armed groups. They are victims of trafficking in persons, rape, sale and domestic or sexual slavery.

The Committee also notes in the November 2020 Report of the United Nations Secretary-General, on children and armed conflict in Mali (S/2020/1105, paragraph 16), that for the first time since 2014, boys were associated with the Malian armed forces in the Gao region. A total of 24 boys in 2019 and 21 boys in 2020, between the ages of 9 and 16, were used as domestic workers and couriers. However, they were released to their families in 2020 and have been receiving reintegration support.

The Committee once again **deplores** the recruitment and use of children in the armed conflict affecting the north of the country, especially since the persistence of this worst form of child labour entails other grave violations of the rights of children. ***While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in certain regions of the country, the Committee once again requests the Government to take the necessary measures, as a matter of urgency, to bring an end, in practice, to the forced recruitment of children under 18 years of age by the parties to the conflict. It also requests the Government to implement the***

process of disarmament, demobilization and reintegration of all children associated with the armed forces or armed groups in order to ensure their rehabilitation and social integration. Lastly, the Committee requests the Government to take the necessary measures to ensure that persons forcefully recruiting children under 18 years of age for their use in armed conflict are prosecuted and penalized, and to provide information in this regard.

2. *Forced or compulsory labour. Begging.* Further to its previous comments, the Committee notes the Government's information that, between 2019 and 2022, 11 Koranic teachers (*marabouts*) were brought before the courts for forced begging affecting 109 children. The Government states that the cases are pending before the examining judges of the Court of First Instance of Commune III of Bamako. ***The Committee requests the Government to continue to take the necessary measures to ensure that thorough investigations and prosecutions are carried out and that sufficiently effective and dissuasive sanctions are imposed upon marabouts who use children under 18 years of age for purely economic purposes. It requests the Government to provide information on the results achieved in this regard, including the number of convictions and the penalties imposed.***

Clause (b). Use, procuring or offering of a child for prostitution. The Committee previously noted the significant number of child victims of commercial sexual exploitation in the country. The Committee notes with ***regret*** that the Government has not noted any cases of prosecutions or convictions relating to the use, procuring or offering of children under 18 years of age for prostitution.

In this regard, the Committee notes the report of the United Nations Independent Expert on the situation of human rights in Mali in the Human Rights Council of 15 January 2020, (A/HRC/43/76 paragraph 55) that, during its universal periodic review in January 2018, Mali agreed to ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. ***The Committee once again urges the Government to take the necessary measures to ensure the effective implementation of the provisions of Act No. 2012-023 on the use, procuring or offering of a child under 18 years of age for prostitution. It also requests the Government to provide information in this regard, including statistics on the convictions and criminal penalties handed down.***

Articles 3(d) and 7(2). Hazardous work and effective and time-bound measures. Children working in traditional gold panning. In its previous comments, the Committee notes that there are a significant number of children working in hazardous conditions in gold mines, some of whom are not even 5 years old.

The Committee notes from the report of the National Unit against Child Labour (CLNTE), annexed to the Government's report, that a total of 52 girl and 20 boy victims of the worst forms of labour were identified through the monitoring of three gold panning sites in 2021.

The Committee also notes the total number of 205 girls and 232 boys who have benefited from the project against child labour in the cotton production and gold panning value chains through the accelerated schooling strategy (SSA/P), and the results of the Clear Cotton project, both conducted in cooperation with the ILO Office.

However, the Committee notes the Government's indications that the National Plan of Action for the Elimination of Child Labour in Mali (PANETEM I) has not received adequate funding owing to the political and security crisis in the country, but that PANETEM II, which will cover the period 2023 to 2027, is in the process of being approved. ***The Committee requests the Government to continue its efforts, under PANETEM II, the Clear Cotton project and the SSA/P, in order to remove children from the worst forms of child labour in traditional gold panning and cotton production, with a view to ensuring their rehabilitation and social integration. It requests the Government to continue to provide information on the progress achieved and results obtained in this regard.***

Article 7(2)(a). Access to free basic education. Further to its previous comments, the Committee notes the information in the Government's report that the results of the implementation of the ten-year

programme for the development of second-generation vocational training and education 2019–2028 (PRODEC II) will be available at the end of 2022. The Government emphasizes in PRODOC II that the children who are out of school come mainly from rural areas and are relatively higher in number in the regions of Mopti (60.4 per cent), Ségou (52.3 per cent), Sikasso (43.7 per cent) and Kayes (45.3 per cent).

The Committee notes the statistics of the UNESCO Institute for Statistics, according to which in 2018, a total of 2,061,713 children and adolescents of primary and lower secondary school age were not in school. In this respect, the Committee notes from the quarterly report of the United Nations Multidimensional Integrated Stabilization Mission in Mali on trends in human rights violations and abuses in Mali from 1 April to 30 June 2022, that a total of 1,731 schools are not operational (affecting 519,300 children) due to insecurity, particularly in the Mopti and Ménaka regions.

The Committee once again expresses its **concern** at the large number of children deprived of education due to the armed conflict affecting northern Mali. ***The Committee urges the Government to step up its efforts to improve the functioning of the education system and to provide access to free basic education, by increasing school enrolment rates, both at the primary and secondary levels, and by reducing the drop-out rates in all regions of the country. In this regard, it requests the Government to provide information on the progress achieved and the results obtained through the implementation of PRODEC II 2019–2028.***

The Committee is raising other matters in a request addressed directly to the Government.

Mauritania

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

Previous comments: [observation](#) and [direct request](#)

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously requested the Government to continue its efforts to ensure the progressive elimination of child labour and to continue providing information on the activities and results of the National Plan of Action on the Elimination of Child Labour (PANETE-RIM).

The Committee notes the information in the Government's report that the implementation of PANETE-RIM has resulted in the organization of activities to combat child labour, primarily in the *wilayas* (regions) of Guidimaka and Trarza: first and foremost, tripartite missions coordinated by the Ministry of Public Service and Labour (MFPT), the Ministry of Livestock and the Ministry of Social Affairs, Children and Family; and also regional workshops related to the second and third strategic axes of PANETE-RIM aimed at strengthening the technical and operational capacities of the actors involved and raising awareness and improving knowledge about child labour and its worst forms, particularly in the livestock sector. In addition, the Government indicates that a consultation mechanism has been set up with the social partners for the protection of children and the implementation of the national child protection strategy. ***The Committee requests the Government to continue its efforts to ensure the progressive elimination of child labour and to continue to provide information on the activities carried out and results achieved in this regard. It also requests the Government to provide information on the activities of the consultation mechanism to combat child labour. Finally, it requests the Government to take the necessary measures to ensure the availability of updated statistical information on the economic activities of children and young persons, including on the number of children working below the minimum age.***

Article 3(1) and (2). Hazardous work. ***With regard to the adoption of the list of types of hazardous work prohibited for children under the age of 18 years, the Committee refers to its comments in relation to the Worst Forms of Child Labour Convention, 1999 (No. 182).***

Article 5. Limitation of the scope of application of the Convention to certain branches of economic activity. The Committee previously noted that, at the time of ratification of the Convention, Mauritania declared that it was initially limiting the scope of application of the Convention to the branches of economic activity and types of enterprise covered by *Article 5(3)* of the Convention, namely: mining and quarrying; manufacturing; construction and public works; electricity, gas and water; sanitary services; transport, storage and communications; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing waged workers. It noted the information provided by the Government that in industries that are excluded from the scope of the provisions of the Convention, child labour is virtually non-existent. However, the Government stated that it intended to extend the scope of the provisions of the Convention to the informal sector, where child labour might still exist.

In this regard, the Committee noted, in its comments on Convention No. 182, the statistics in the September 2018 report on the survey of child labour in agriculture in Mauritania, produced jointly by the Government and the ILO, which indicated that 77.1 per cent of working children who responded to the survey were unpaid family workers. According to that report, more than one third (37.2 per cent) of interviewed child workers between 5 and 17 years of age said that they had been exposed to dangers and hazards connected with agricultural activities, such as injuries from tools and exposure to chemicals.

The Committee notes with **concern** that the employment of children in informal family enterprises, including in hazardous conditions, appears to be widespread in the country. The Committee emphasizes that, although the scope of the Convention may be limited to certain branches of economic activity, the protection of children from engagement in hazardous work cannot be excluded from the scope of the Convention, especially since the new Order No. 0066 of 17 January 2022 on the list of hazardous work prohibited for children, prohibits the employment of children under 18 years of age in hazardous work harmful to their physical or mental health, in establishments of any kind, including family enterprises. ***Recalling that Article 5(4) of the Convention allows Member States to extend the scope of the Convention by a declaration addressed to the Director-General of the Office, the Committee strongly encourages the Government to consider the possibility of making use of this Article to ensure the protection of children working in the informal sector, in particular in a family context. In the meantime, the Committee requests the Government to take the necessary measures to ensure that no child under the age of 18 years is engaged in hazardous work, including those working in a family business, and to provide information on the progress made in this regard and the results achieved.***

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

[Previous comment](#)

Articles 3(a) and 7(1) of the Convention. Slavery or slavery-like practices and penalties. 1. *Child victims of slavery.* Regarding the measures taken to ensure effective application of Act No. 2015-31 of 10 September 2015 criminalizing slavery and suppressing slavery-like practices, the Committee refers to its detailed comments on the Forced Labour Convention, 1930 (No. 29).

2. *Forced or compulsory labour. Begging.* The Committee previously noted that section 42(1) of Ordinance No. 2005-015 for the protection of children under criminal law provides that any person who causes a child to beg or directly employs a child to beg shall be liable to imprisonment of one to six months and a fine. It again notes with **regret** the lack of information on investigations and prosecutions of *marabouts* who force children to beg. ***Recalling that even the best legislation is only effective if it is enforced, the Committee again urges the Government to take the necessary steps to ensure the effective application of section 42(1) of Ordinance No. 2005-015 for the protection of***

children under criminal law. The Committee urges the Government to provide information on this matter, including, for example, the number of marabouts identified as using children for purely economic purposes, the number of prosecutions and the criminal penalties imposed.

3. *Sale and trafficking of children.* In its previous comments, the Committee noted that, under section 78 of Act No. 2018-024 of 21 June 2018 issuing the General Child Protection Code, any person who subjects a child to trafficking shall be liable to imprisonment of 10 to 20 years.

The Committee notes from the information available in the Government's report submitted in respect of Convention No. 29, that the new Act No. 2020-017 of 6 August 2020 on the prevention and repression of trafficking in persons and the protection of victims, defines and includes all forms of human trafficking that were not provided for under Act No. 2015-031 criminalizing slavery and suppressing slavery-like practices. It provides adequate sanctions for all forms of trafficking to which persons may be exposed, including forced labour, slavery and slavery-like practices. It also aims to promote national coordination and international cooperation in the field of combating trafficking in persons. The Government also supplies detailed information on the action undertaken since the entry into force of Act No. 2015-031, including the annual organization of training and awareness-raising activities by the Justice Department, aimed at strengthening the capacities of magistrates, and of the actors in the criminal justice system, including judges, prosecutors, judicial police officers, attorneys, registrars and civil society actors. Moreover, the Committee notes, still according to the Government's report on Convention No. 29, the data concerning the cases considered by the Supreme Court, the appeal courts and the judicial authorities related to trafficking for the purpose of slavery. The Committee notes however that this data do not include the other forms of trafficking and are not disaggregated by age. **The Committee requests the Government to continue its efforts to strengthen the capacities of the entities responsible for the application of legislation to combat the sale and trafficking of children under 18 years of age, including through training and the provision of adequate resources. It also requests the Government to provide information on the application in practice of section 78 of Act No. 2018-024 of 21 June 2018 issuing the General Child Protection Code and of Act No. 2020-017 on the prevention and repression of trafficking in persons and the protection of victims, indicating the number and nature of the violations identified, the prosecutions filed and the penalties imposed, in cases specifically concerning child victims of trafficking under 18 years of age.**

Articles 3(d) and 4(1). Hazardous work and determination of hazardous types of work. The Committee previously expressed the firm hope that the Government would adopt the list of hazardous types of work prohibited for children under 18 years of age in the very near future. It notes with **satisfaction** the adoption of Ordinance No. 0066-2022 of 7 January 2022 concerning the list of hazardous work prohibited for children, which prohibits the employment of children in hazardous work detrimental to their physical or mental health, in any public or private establishment, whether agricultural, commercial or industrial in nature, including where such establishments impart religious or occupational education or are charitable institutions, family enterprises or private households. In this regard, the Ordinance contains a detailed list of the types of hazardous work prohibited to children. Moreover, section 7 provides that the Secretary-General of the Ministry of Labour, the Director-General of Labour and the labour inspectors, as the case may be, are responsible for application of the Ordinance. **The Committee requests the Government to provide information on the application in practice of Ordinance No. 0066-2022 concerning the list of hazardous work prohibited for children. In particular, it requests the Government to provide information on the number and nature of the violations identified by the labour inspection and to indicate what sanctions are provided and applied in such cases.**

Article 7(2) Effective and time-bound measures. Clause (b). Assistance for the removal of children from the worst forms of child labour and for their rehabilitation and integration into society. Forced or compulsory labour. Begging. The Committee previously noted the persistent presence of children engaged in begging and requested the Government to continue to indicate the number of child victims of begging who have been removed from the streets and rehabilitated and integrated into society, including by

social protection and rehabilitation centres, and to inform the Committee of any other measure taken to identify and remove *talibé* children from being obliged to beg.

The Committee notes with **regret** the absence of relevant information in the Government's report. It notes from Mauritania's national report of 9 November 2020, presented under the Universal Periodic Review of the Human Rights Council, that a programme has been launched to tackle the practice of begging, and a project for the integration and education of child beggars helping to put an end to this practice is under way (A/HRC/WG.6/37/MRT/1), paragraph 119). ***The Committee requests the Government to intensify its efforts to remove children under 18 years of age from begging, rehabilitate and integrate them socially. It urges the Government to communicate information in this regard, including on the number of talibé children taken into care by the social protection and rehabilitation centres or rehabilitated within the framework of the programme to tackle the practice of begging.***

Clause (c). Access to free basic education. The Committee previously noted that while access to basic education has been improved in primary education, with virtual parity between boys and girls, it remained concerned at the poor quality of the teaching, the low transition rates to secondary school, insufficient monitoring of private and Koranic schools, overcrowding and understaffing in schools and the very high school drop-out rates among girls who are descended from persons subjected to slavery or among black African girls.

The Committee notes with **regret** that the report lacks information in this respect. It notes the information provided by the Government in Mauritania's national report of 9 November 2020, submitted under the Universal Periodic Review to the Human Rights Council, concerning the implementation of the education policy, the principal aim of which is to guarantee for all children on the Mauritanian territory a complete and good quality education, by improving educational opportunities, eliminating disparities of all kinds, raising the quality of teaching and introducing a results-based management approach. Within this framework, the measures taken include: (i) increasing the budget allocated to education; (ii) expanding the network of primary schools, particularly in rural areas, and increasing the numbers of teachers; (iii) introducing nutrition programmes and fitting sanitary installations, specifically for girls; (iv) providing school buses for female students in rural areas; (v) granting cash transfers to poor families, subject to sending their children to school (30,512 poor family beneficiaries); and (vi) granting of monthly scholarships to nearly 2,400 girls from disadvantaged backgrounds. ***Considering that access to free basic education and school attendance are essential to prevent the engagement of children in the worst forms of child labour, the Committee requests the Government to continue its efforts to improve the functioning of the education system in the country, including by increasing the secondary school enrolment and completion rate. It again requests the Government to continue to take the necessary steps to improve access to education in public schools, the quality of teaching, and to combat school drop-outs. Lastly, the Committee urges the Government to provide statistical information on the school enrolment and completion rates at both primary and secondary levels, disaggregated by age and gender.***

Clause (e). Particular situation of girls. Domestic work. In its previous comments, the Committee noted that more than half of all domestic workers in Mauritania are children, the majority of them girls, separated from their families and exposed to economic exploitation, violence, discrimination and abuse, including sexual abuse. The Committee noted that the Government explained that contracts for domestic work must be in written form and that abuses in this area are severely punished. The Committee requested the Government to communicate statistical information on the number and nature of penalties imposed on persons who exploit girls in domestic work, and to provide copies of standard employment contracts for domestic workers.

The Committee once more notes with **regret** that the Government provides no information in this respect in its report. However, the Committee notes that, under the new Ordinance No. 0066-2022 of 7 January 2022 concerning the list of hazardous work prohibited for children, domestic work is included

in the sectors of activity prohibited to children under the age of 18 years. ***The Committee therefore urges the Government to take the necessary measures to ensure the effective implementation of Ordinance No. 0066-2022, thereby putting an end in practice to the exploitation of girls under 18 years of age in domestic work. In this regard, it again requests the Government to provide statistical information on the number and nature of penalties imposed on persons who exploit girls in domestic work and to send copies of standard employment contracts for domestic workers. Lastly, the Committee urges the Government to take the necessary measures to identify and remove girls under 18 years from hazardous domestic work and to provide information on the number of girls removed and rehabilitated and socially integrated.***

The Committee is raising other matters in a request made directly to the Government.

Mongolia

Minimum Age Convention, 1973 (No. 138) (ratification: 2002)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted the outcomes of the National Programme for the Elimination of the Worst Forms of Child Labour 2011–16 (the NAP-WFCL) indicated by the Government, including 694 cases of child labour identified, and the organization of training and awareness-raising events. It further noted that child labour rose from 7 per cent in 2002–03 to 16 per cent in 2011, according to the Understanding Children's Work (UCW) project. The Committee requested the Government to continue its efforts to ensure the progressive abolition of child labour.

The Government indicates in its report that the National Programme for the Development and Protection of Children was adopted by resolution No. 270 of 20 September 2017. This programme, which will be implemented for the 2017–21 period, includes measures to eliminate child labour. The Government states that the Implementation Schedule for the National Programme for the Development and Protection of Children for 2018–19 was approved in 2018 by the Minister of Labour and Social Protection, the Minister of Education, Culture, Science and Sport, and the Minister of Health.

The Committee notes that, according to the 17th Status Report on Human Rights and Freedoms in Mongolia, issued in 2018 by the National Human Rights Commission of Mongolia, the Government expanded the child helpline service by resolution No. 55 of 2016, as an official service centre under the Authority for Family, Child and Youth Development. The Committee notes that the Deputy Minister of Labour and Social Protection indicated in its opening statement for the 75th Session of the United Nations Committee on the Rights of the Child (CRC) on 25 May 2017 that the child helpline is a 24-hour call centre free of charge, with four channels. The centre receives 15,000 calls per month and provides necessary information and advice related to child protection and contributes to monitoring the receipt and processing of complaints by children. ***The Committee encourages the Government to pursue its efforts towards the progressive elimination of child labour and to provide information on the measures taken in this regard, including on the implementation of the National Programme for the Development and Protection of Children and on the impact of the child helpline service.***

Article 2(1). Scope of application. Informal economy. In its previous comments, the Committee noted that the Labour Law excluded work performed outside the framework of a labour contract and self-employment from its scope of application. It noted that the definition provided in the new draft Labour Law did not cover work performed outside the framework of an employer/employee relationship or in the informal economy and requested the Government to modify its draft Labour Law to ensure that the protections provided are extended to children working outside of an employment relationship.

The Committee notes the Government's indication that a parliamentary working group on the Labour Law revision has been appointed by the Parliament, in order to suggest proposals and conclusions prior to the discussion in the Parliament. The Government states that the working group is preparing proposals in order to provide legal protection to all workers, including children, in the Labour Law. The Committee notes that, according to the ILO's information collected in the framework of the project on "Sustaining Generalised

Scheme of Preferences-Plus (GSP+) Status by strengthened national capacities to improve International Labour Standards compliance and Reporting-Mongolia Phase 2 (GSP+3)", the draft Labour Law extends labour protection to all cases where employment relations exist, regardless of the existence of an employment contract. It also notes that, according to the ILO's information, the draft revised Labour Law will be discussed during the spring session of parliament, as of 5 April 2019. ***The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the draft Labour Law does not fail to take into account the Committee's comments, thus ensuring that all children working outside of an employment relationship, such as children working on their own account or in the informal economy, benefit from the protection laid down by the Convention. It requests the Government to provide a copy of the new law, once adopted.***

Article 2(3). Age of completion of compulsory schooling. In its previous comments, the Committee had noted the contradictory provisions in various national laws which regulate the minimum age for admission to employment and the age of completion of education. It noted the Government's indication that its legislation provides for nine years of compulsory schooling starting from the age of 6. The Government indicated that the draft Labour Law provides for the prohibition of employment to "(1) children less than 15 years of age and (2) those who have reached that age but who have not finished compulsory education". The Committee accordingly requested the Government to take the necessary measures to ensure that a provision linking the minimum age for admission to employment to the age of completion of compulsory schooling is included in the draft Labour Law.

The Committee notes the Government's statement that the draft Labour Law is under review and that a parliamentary working group on the Labour Law revision has been appointed. ***The Committee expresses the firm hope that the revision of the Labour Law will include a provision linking the minimum age for admission to employment to the age of completion of compulsory schooling.***

Article 7(1) and (3). Light work and determination of light work activities. The Committee previously noted the Government's indication that the legislation concerning light work is included in the draft Labour Law which provides for regulations that will determine light work and hours and conditions in which minors may be employed. It urged the Government to take the necessary measures to ensure that a provision regulating light work is adopted in the near future.

The Committee notes the Government's indication that, in the framework of the revision of the Labour Law, light work which may be carried out by children will be regulated for the first time. The Committee notes that, according to the Final Narrative Report of the project GSP+3, the draft revised Labour Law allows children of 13 years of age and above to perform light work that has adequate occupational safety and health conditions with the permission of their legal representatives. The Committee recalls that, under Article 7(1) of the Convention, national laws or regulations may permit the employment or work of persons as from 13 years of age in light work which is: (a) not likely to be harmful to their health or development; and (b) not such as to prejudice their attendance at school, their participation in vocational training or training programmes approved by the competent authority or their capacity to benefit from the instruction received. ***The Committee expects the Government to take the necessary measures without delay to regulate light work and determine the types of light work activities that may be undertaken by children of 13 years of age and above, within the framework of the Labour Law review process. It requests the Government to provide a copy of the list of the types of light work permitted for children, once it has been adopted.***

Article 8. Artistic performances. The Committee previously noted the Government's indication that there is no law or policy limiting age and work hours for children working in artistic performances yet. It requested the Government to take the necessary measures to establish a system of individual permits to be granted for children under 15 years who work in activities such as artistic performances and to limit the hours during which, and prescribe the conditions in which, such employment or work is allowed.

The Committee notes the Government's statement that, in the framework of the revision of the Labour Law, regulations for granting permits, limiting the number of hours during which, and prescribing the conditions in which children under the age of 15 are allowed to work in activities such as artistic performances, will be established. ***The Committee expresses the firm hope that the revision of the Labour Law will ensure the establishment of a system of individual permits to be granted for children under 15 years of age who work in activities such as artistic performances, in compliance with Article 8 of the Convention. It requests the Government to provide information in this respect.***

Article 9(1). Penalties. The Committee previously noted that a draft of the revised version of the Criminal Code, which includes a criminal offence provision for persons employing children in the worst forms of child labour, was being reviewed by the Parliament. It requested the Government to take the necessary measures to ensure that the draft Criminal Code establishes sufficiently effective and dissuasive penalties.

The Committee notes the absence of information on this point in the Government's report. It notes the Government's indication, in its report to the CRC, that a new Chapter "Crime against children" was added in the Criminal Code of 2015 (which entered into force on 1 July 2017), defining as a crime the intentional engagement of a child to conduct work that is physically and mentally harmful to him/her. The Committee notes that, pursuant to section 16.10 of the Criminal Code, this crime is punishable by a fine, community work, restriction of movements or imprisonment of six months to one year. ***The Committee requests the Government to provide information on the application of section 16.10 of the Criminal Code in practice, including information on the number of violations reported, the nature of the offences, and the penalties imposed.***

Article 9(3). Keeping of registers. In its previous comments, the Committee noted that the national legislation does not contain provisions on the obligation of an employer to keep and make available the registers of persons under the age of 18 whom he/she employs. It noted that the draft regulations to the Labour Law prescribes that an employer must keep a record of "minor employees", and requested the Government to ensure that the regulations will require employers to keep a register containing the name and age (or date of birth) of all persons under the age of 18 years whom they employ.

The Committee notes the Government's indication that section 93.7 of the draft Labour Law requires the employer to keep a register of all children employed by him/her, including their name, date of birth, the work period and the conditions of work, and to inform, within ten days of the start of employment, the relevant state body responsible for labour and labour supervision. The Government further indicates that the draft Penalties Act has been amended in line with the draft revised Labour Law to impose penalties on employers who do not keep registers of children employed. ***The Committee expresses the firm hope that the draft Labour Law will be adopted without further delay, so as to be in line with Article 9(3) of the Convention, and requests the Government to send a copy of the Law once it has been adopted. It also requests the Government to indicate the penalties applicable to employers who fail to comply with the keeping of registers of children whom they employ and to provide information on the adoption of the draft Penalties Act.***

The Committee expresses the firm hope that the Government will take into consideration the Committee's comments while finalizing its draft legislation. In this regard, the Committee welcomes the ILO project financed by the European Union to support the Generalised Scheme of Preferences (GSP+) beneficiary countries to effectively implement international labour standards targeting Mongolia.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Morocco

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2(1) of the Convention. Minimum age for admission to employment or work and application of the Convention in practice. 1. Children working in informal artisanal activities and other sectors. In its previous comments, the Committee noted that, according to the International Trade Union Confederation (ITUC), child labour was common in informal artisanal activities. It also noted that, according to the report entitled "Understanding Children's Work in Morocco", 7 per cent of children between 7 and 14 years of age were engaged in work, while 18 per cent of children were economically active in the 12 to 14 age group. According to this study, 87 per cent of working children were in rural areas, where they worked in agriculture. The Committee also observed that, under section 4 of the Labour Code, children employed in informal artisanal activities, or formal artisanal activities involving five employees or fewer, do not enjoy the protection of the Labour Code and, consequently, do not benefit from the application of the minimum age of 15 years for admission to employment or work. The Committee noted that, according to the survey of children's work in

small agricultural undertakings in Morocco (2014), the average age of children working in small agricultural undertakings was 14.3 years, with the over-15 age group accounting for nearly 57 per cent of the total and the under-12 age group for 10 per cent. It further noted that the average school dropout age was 13 years. The Committee noted with interest the Government's statement that the bill concerning conditions of work and employment in activities of a purely traditional nature (bill on traditional activities), which prohibits work for children under 15 years of age in this sector in accordance with sections 143 and 153 of the Labour Code, was examined by the Council of the Government on 25 December 2014.

The Committee notes the Government's indication in its report that the bill on traditional activities has been amended to incorporate new protectionist provisions which are favourable to workers in the sector and that it was referred to the Secretariat-General of the Government on 7 June 2018. The Committee also notes that, according to the quarterly employment survey of the Office of the High Commissioner for Planning, a total of 46,662 children under 15 years of age were engaged in work in the third quarter of 2017 and over 88 per cent of them were working in rural areas. The Committee further notes that the United Nations Human Rights Committee, in its concluding observations of December 2016, expressed concern at the continued economic exploitation of children, particularly in agriculture (CCPR/C/MAR/CO/6, paragraph 47). The Committee recalls that the Convention applies to all sectors of economic activity and all forms of employment or work, including the artisanal and agricultural informal economy. ***The Committee expresses the firm hope that the bill concerning conditions of work and employment in activities of a purely traditional nature will be adopted in the very near future and requests the Government to send a copy when it has been adopted. It requests the Government to continue its efforts to combat child labour, especially in the artisanal and agricultural sectors, and to provide information on the implementation of any project in this regard and the results achieved.***

2. Child domestic workers. As regards the issue of child domestic labour, the Committee requests the Government to refer to its detailed comments on the Worst Forms of Child Labour Convention, 1999 (No. 182).

Article 9(1). Penalties. In its previous comments, the Committee noted that section 151 of the Labour Code provides that the employment of a child under 15 years of age, in breach of section 143 of the Labour Code, shall be punishable by a fine of 25,000–30,000 dirhams (MAD) (US\$3,000–3,600), and that a repeat offence is subject to a term of imprisonment of six days to three months and/or a fine of MAD50,000–60,000 (US\$6,000–7,200). It nevertheless noted that sections 150 and 183 of the Labour Code provide for a fine of MAD300–500 (US\$36–60) for breaches of sections 147 and 179 of the Labour Code (prohibiting the employment of children under 18 years of age in hazardous work, in quarries or mines, or in work likely to hamper their growth). The Committee noted with regret the lack of information on any legislative amendments relating to penalties for violations of the ban on employing children under 18 years of age in hazardous work. Furthermore, the Committee noted that, before resorting to penalties, labour inspectors must give advice and information to employers on the dangers to which child workers are exposed. Under sections 542 and 543 of the Labour Code, a labour inspector who detects a violation of the safety and health provisions or regulations that poses an imminent risk to the workers' health or safety shall issue an order requiring the employer to take all the necessary measures immediately. It is only if the employer refuses or fails to comply with the requirements of the order that the labour inspector shall immediately refer the matter to the court of first instance, where the employer may be given a deadline for taking all necessary steps to prevent the imminent danger and may order the closure of the establishment and determine, where appropriate, the necessary duration of the closure. The Committee observed that persons who have employed children in breach of the provisions giving effect to the Convention are not generally prosecuted if such employment is brought to an end.

The Committee notes the Government's indications that in 2017 labour inspectors carried out 684 inspections in which they made 2,306 observations and issued 43 compliance notices. The Government indicates that, out of 85 working children under 15 years of age, 70 were removed from work and, out of 542 children between 15 and 18 years of age engaged in hazardous work, 158 were removed from such work. The Committee notes with **regret** that the Government has not sent any information on the number of persons prosecuted and the penalties imposed on persons violating provisions giving effect to the Convention. Furthermore, the Committee notes with concern that despite the fact that it has been raising this issue since 2005, the penalties for violating the prohibition on the employment of children under 18 years of age in hazardous work still do not constitute an adequate deterrent to ensure the application of

the provisions of the Convention concerning hazardous work. ***The Committee urges the Government to take the necessary measures to ensure that all persons who employ children under 18 years of age in hazardous work are prosecuted and incur penalties that constitute an effective and adequate deterrent, in accordance with Article 9(1) of the Convention and in line with the more severe penalties envisaged in section 151 of the Labour Code. The Committee also requests the Government to provide information on the type of violations of the Convention detected by the labour inspection services, the number of persons prosecuted for each type of violation and the penalties imposed, particularly in relation to the provisions giving effect to the Convention.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 3(a) and (d) and 7(1) of the Convention. Forced or compulsory labour, hazardous work and penalties. Child domestic labour. In its previous comments, the Committee noted the statement by the International Trade Union Confederation (ITUC) that child domestic labour, performed under conditions of servitude, is common practice in the country, with parents selling their children, sometimes as young as 6 years of age, to work as domestic servants. The Committee noted that section 10 of the Labour Code prohibits forced labour and that section 467-2 of the Penal Code prohibits the forced labour of children under 15 years of age. It further noted that a bill concerning domestic work, fixing the minimum age for this type of employment at 16 years, was in the process of being adopted. The Government indicated that a specific list determining hazardous types of work prohibited in the domestic work sector had been drawn up and would be circulated for approval after promulgation of the abovementioned bill. Furthermore, an initial survey of girl domestic workers indicated a total of nearly 23,000 girls under 18 years of age engaged in domestic work in the Greater Casablanca area, 59.2 per cent of whom were under 15 years of age. The survey revealed that many of these girls were victims of abuse. The Committee noted with concern the observation of the United Nations Committee on the Rights of the Child (CRC) that the authorities had not taken sufficient measures to remove girls, some only 8 years old, from households where they are employed as domestic workers in precarious conditions. The Committee urged the Government to take the necessary steps to ensure that the abovementioned bill and the list of hazardous types of domestic work were adopted as a matter of urgency.

The Committee notes with **satisfaction** the adoption of Act No. 19-12 fixing the conditions of work and employment of male and female domestic workers. The Government refers in its report to the adoption of two implementing decrees, specified in sections 3 and 6 of the aforementioned Act, which establish, respectively, the standard employment contract for domestic workers and the list of hazardous types of work prohibited for domestic workers aged between 16 and 18 years. Activities prohibited for children include the use of chemicals and electric cutting tools or machines which may present a risk to the safety and health of domestic employees, and work which may expose domestic workers to health risks because of contact with persons suffering from contagious diseases.

The Committee notes that section 6 of Act No. 19-12 fixes the minimum age for admission to employment as a domestic worker at 18 years. The aforementioned section provides for a transition period of five years during which children between 16 and 18 years of age may be employed as domestic workers further to written permission from their guardians. Section 7 of the Act prohibits forced labour involving domestic workers. Under section 23 of the Act, persons who infringe sections 6 and 7 are liable to a fine of 25,000–30,000 Moroccan dirhams (MAD) (US\$3,000–3,600) and, in the case of a repeat offence, a fine of double the amount and/or three months' imprisonment. The Committee further notes that the United Nations Human Rights Committee, in its concluding observations of December 2016, expressed concern at the continued economic exploitation of children, particularly as domestic workers (CCPR/C/MAR/CO/6, paragraph 47). While noting the Government's efforts to regulate domestic work, the Committee reminds the Government that, under *Article 3(a) and (d)* of the Convention, work done by young persons under 18 years of age under conditions similar to slavery or under hazardous conditions constitutes one of the worst forms of child labour and, under *Article 1*, must be eliminated as a matter of urgency. ***The Committee***

therefore requests the Government to continue its efforts to combat child domestic labour, particularly by ensuring that Act No. 19-12 fixing the conditions of work and employment of male and female domestic workers is applied in practice, and that penalties constituting an effective deterrent are imposed in practice on any individuals who subject children under 18 years of age to domestic work in hazardous or abusive conditions. It requests the Government to provide information on the number and nature of reported offences, the number of prosecutions and the penalties imposed.

Article 3(a). Trafficking of children. In its previous comments, the Committee noted that there was no national legislation relating to the trafficking of children. It also noted the CRC's observation that Morocco remains a country of origin, destination and transit for children, who are subjected to forced labour, particularly as domestic workers, and also to trafficking for sexual exploitation and forced begging, two-thirds of trafficking victims being children. The Committee further noted that the 2015 study on the trafficking of women and children in Morocco, produced jointly by UN Women, Morocco and the Swiss Confederation, refers to the existence of forced labour for boys in craft work and agriculture and also of trafficking for sexual exploitation in the form of prostitution or pornography. The Committee asked the Government to take the necessary steps to ensure the adoption of legislation prohibiting the trafficking of children.

The Committee notes with **interest** the adoption of Act No. 27-14 concerning action against trafficking in persons, promulgated by Dahir No. 1-16-104 of 18 July 2016, under which the definition of exploitation includes all forms of sexual exploitation, particularly exploitation of the prostitution of third parties and exploitation in the form of pornography, including through electronic communication media, and also exploitation in the form of forced labour, servitude, begging, slavery or similar practices, and exploitation in armed conflicts (section 448.1). The Committee notes that, under section 448.4, traffickers of persons are liable to imprisonment of 20–30 years and a fine of MAD200,000 to MAD2 million (US\$21,000–210,000) when the victims are young persons under 18 years of age. The Government indicates that the Act contains provisions relating to institutional measures and provides for the setting up of a national advisory committee whose mandate is to put forward proposals on combating trafficking of persons and to ensure that the necessary steps are taken to support projects run by associations providing assistance for victims.

However, the Committee notes that, according to the report on the work and recommendations of the July 2017 study day on the institutional framework for combating human trafficking, Morocco continues to be a country of origin, transit, and destination for the trafficking of children for labour or sexual exploitation and domestic servitude. The report emphasizes that Morocco has become a country of transit for many migrants originating from sub-Saharan Africa and Asia, who are at special risk of becoming victims of trafficking networks. ***While noting the efforts made by the Government to combat trafficking in persons, the Committee requests the Government to provide information on the application in practice of Act No. 27-14 concerning action against trafficking in persons, indicating in particular the number of child victims of trafficking, disaggregated by gender and age, and the number and nature of prosecutions and penalties imposed.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and removing them from these worst forms, and ensuring their rehabilitation and social integration. Child prostitution and sex tourism. In its previous comments, the Committee expressed concern at the persistence of child prostitution and sex tourism involving young Moroccans and immigrants, particularly boys, despite the amendment to the Penal Code in 2003 making sex tourism a criminal offence. It noted the Government's indications that the scourge of the sexual exploitation of children remains unseen and unrecognized in Morocco, and so the Government is making every effort to tackle it. Moreover, the CRC, in its concluding observations of 2014, expressed concern at the growth of sex tourism in Morocco. The Committee also noted that, in the 2011 mid-term evaluation of the National Action Plan for Children 2006–15 (PANE), the Government indicated that PANE had recorded significant progress in the protection of child victims of sexual exploitation, by establishing new public structures for the protection of child victims of sexual violence, including care units in courts and hospitals, support units within the Directorate-General for National Security, guidance and support units in schools, the ONDE telephone helpline and child reception areas in police stations. In this context, the Committee noted that five child protection units (UPEs) were set up between 2007 and 2010 in Marrakech, Casablanca, Tangier, Meknès and Essaouira to ensure better medical, psychological and legal assistance for child victims of violence and mistreatment, including sexual and economic exploitation, and that hundreds of children have benefited. The Government indicated that it

had established an integrated public child protection policy in 2013, which included the objective of protecting children from sexual exploitation.

The Committee notes the Government's indication that the "Integrated public policy for the protection of children in Morocco 2015–25 (PIPM)", adopted on 3 June 2015, comprises five strategic objectives, including: (i) strengthening the legal framework for child protection and making it more effective; (ii) establishing regional integrated child protection mechanisms; and (iii) setting up information, follow-up/evaluation and monitoring systems. The Government refers to the setting up of a programme for the rehabilitation of the UPEs, developed by the Ministry for the Family, Solidarity, Equality and Social Development (MFSEDS) in collaboration with the National Assistance Agency and associations with expertise in this field, in order to reinforce structures for the social protection of children and improve the quality of care for children in difficult situations. In 2016, three new UPEs were set up in Salé, Taza and Agadir. The Committee notes that the Government does not provide any information on the number of children prevented from engaging in commercial sexual exploitation or removed from it by the UPEs. ***The Committee requests the Government to continue its efforts to combat the commercial sexual exploitation of children. It also requests the Government to send information on the implementation of the integrated public child protection policy with regard to sexual exploitation and also information on the number of children prevented from engaging in commercial sexual exploitation or removed from it by the UPEs.***

Clause (d). Children at special risk. Child domestic labour. The Committee previously noted the adoption of the "National programme to combat the use of young girls in domestic work (INQAD)" as part of the National Action Plan for Children. It also noted the results achieved through the ILO–IPEC–PAMODEC project, particularly the training of 50 labour inspectors in the area of child labour with a specific component on child domestic labour, three regional information and consultation meetings with the relevant stakeholders aimed at establishing a process for the preparation of regional plans to combat domestic labour, six training sessions on child domestic labour for educators and social facilitators in non-governmental organizations (NGOs), participation and consultation on the bill concerning domestic workers, the implementation of two action programmes against child domestic labour involving young girls in the regions of Rabat/Salé and Marrakech/Safi in support of the AMESIP and Al Karam associations (providing aid for children in precarious situations).

The Committee notes the Government's indications that financial support from the Government in 2017 enabled associations to develop projects, inter alia, to reduce child domestic labour involving young girls, while also taking action to reduce the school dropout rate. Even though the Government indicates that, in 2016, a total of 286 children under 15 years of age were removed from work and 271 children between 15 and 18 years of age were removed from hazardous work, including young girl domestic workers, the Committee notes the lack of information regarding the number of girls removed from domestic work in particular. ***The Committee encourages the Government to step up its efforts to identify, remove and reintegrate girls under 18 years of age who are employed in domestic work and are victims of economic or sexual exploitation, and requests it to provide information on the results achieved with respect to domestic work involving young girls.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Mozambique

Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

Previous comments: [observation](#) and [direct request](#)

Article 2(1) of the Convention. Scope of application and labour inspection. Children working in the informal economy. Following its previous comments, the Committee notes the Government's indication, in its report, that the General Labour Inspectorate (IGT) does not monitor or inspect activities or work in the informal economy considering that the Labour Law (Act No. 23/2007 of 1 August 2007) only regulates work in the formal economy. Consequently, while no situations constituting the employment

of children under the minimum age have been identified in inspections conducted in the formal economy, there is no statistical data on the observance of international labour standards regarding the employment of children and young persons in the informal economy. The Government indicates, however, that the IGT has recommended the dissemination of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), and is continuing its efforts to identify instances of child labour, which is mostly observed in the agricultural, mining and livestock grazing sectors.

While taking due note of this, the Committee notes that, in its concluding observations of 27 November 2019, the United Nations Committee on the Rights of the Child recommended that Mozambique strengthen its labour inspectorate, including through increased financial resources and continuous capacity-building, and develop programmes and intersectional coordination mechanisms to identify and protect victims of child labour, including in the informal sector (CRC/C/MOZ/CO/3-4, paragraph 44). ***The Committee requests the Government to strengthen its measures to ensure that the protection afforded by the Convention is guaranteed to children working in the informal economy, including through labour inspection. In this regard, the Committee once again encourages the Government to take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate services to better monitor children working both in the formal and in the informal economy, particularly in the agricultural sector, as well as in the mining and livestock grazing sectors. It requests the Government to provide information on specific measures taken in this regard, as well as on the results achieved.***

Article 6. Vocational training and apprenticeship. Following its previous comments, the Committee notes the Government's indication that Act No. 6/2016, amending Act No. 23/2014 on Vocational Education, provides that the minimum requirement to enter the basic level of vocational education is completion of at least the second grade of primary education or equivalent, and the minimum requirement to enter the intermediate level of vocational education is the completion of at least the basic level of vocational education or the first cycle of general secondary education or equivalent. The Committee observes that this does not respond to the requirement, under *Article 6* of the Convention, of ensuring that no minor under 14 years of age is permitted to enter into an apprenticeship programme, and that it appears that the minimum age to do so remains 12 years of age, in accordance with section 248(3) of the Labour Law. ***The Committee therefore requests the Government to take the necessary measures to ensure that children below the age of 14 do not enter apprenticeship programmes in undertakings, including in the framework of the current Labour Law review.***

Article 7(1) and (3). Minimum age for admission to light work and determination of light work. The Committee previously noted that the national legislation of Mozambique permitted minors between 12 and 15 years of age to enter into employment contracts (section 26(2) of the Labour Law), including domestic work (section 4(2) of the Regulations on Domestic Work (Decree No. 40/2008)), with the written authorization of their legal representatives. It requested the Government to take the necessary measures to bring that legislation, including the Labour Law, into conformity with *Article 7(1) and (3)* of the Convention (minimum age of 13 for light work and conditions and hours for permitted light work activities).

The Committee notes the Government's indication that the revised draft Labour Law will establish the age of 18 as the sole minimum age for admission to employment, without exceptions. ***The Committee expresses the firm hope that the provisions of the revised Labour Law will ensure that any light work activities may not be undertaken by children under the age of 13 years, as required by Article 7 of the Convention, including in domestic work. In this regard, it requests the Government to keep it informed of the progress made in the adoption of the revised Labour Law, and whether a minimum age of 18 years, without exception, is provided for by the new Labour Law.***

Application of the Convention in practice. The Committee notes the information contained in the Government's report relating to the cases of child labour received by the Children's Court (six cases in

2022), through activities led by municipalities throughout Mozambique. While taking due note of this information, the Committee notes with **regret** the absence of information concerning the Committee's previous request for statistics on the number of children under 15 years of age who are involved in child labour. **The Committee once again requests the Government to take the necessary measures to ensure that up-to-date statistical information on the economic activities of children and young persons is made available, including the number of children working under the minimum age. It also requests the Government to provide information on the manner in which the Convention is applied in practice as well as information on the number of inspections carried out, the number and nature of violations relating to the employment of children and young persons detected, and the penalties imposed.**

The Committee is raising other points in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

Previous comments: [observation](#) and [direct request](#)

Articles 3(a), 5 and 7(1) of the Convention. Worst forms of child labour. Sale and trafficking of children, monitoring mechanisms and penalties. Following its previous comments, the Committee notes the information contained in the Government's report according to which the Specialized Unit for Trafficking in Persons, Illegal Immigration and Child Protection (SUTP) of the National Criminal Investigation Service (SERNIC) has carried out prevention interventions throughout the country. The Government indicates that awareness-raising presentations aimed at front-line officials from the SERNIC, the Department for the Assistance of Women and Child Victims of Violence, border control police, and the Customs Service and the National Migration Service have been held in coordination with other State institutions, non-governmental organizations and the International Organization on Migration (IOM). The Committee further notes the information contained in the Government's report under the Forced Labour Convention (No. 29), 1930, according to which other measures have been taken to reinforce the capacities of anti-trafficking authorities, including the production and distribution of handbooks containing procedures for assisting victims of violence, including trafficking victims; weekly technical training sessions provided to police sub-units, addressing various issues including trafficking in persons; and training sessions and short courses held by the SUTP for its focal points throughout Mozambique in order to improve techniques for detecting cases, arresting traffickers and rescuing victims as well as criminal investigation methods. The Committee notes the Government's indication that, in 2021, SERNIC recorded four cases of livestock grazing in Eswatini and the forced labour and sexual exploitation of children in South Africa, both involving Mozambican children. The children involved in these cases, all of whom were girls, were rescued and brought back to their families. The Government also provides statistics on the cases of sexual abuse of minors recorded by SERNIC (299 cases in 2022), but it is unclear whether those cases are related to trafficking or commercial sexual exploitation. Moreover, the Committee observes with **regret** that the Government does not provide any information on the number of prosecutions, convictions and penalties applied in cases of trafficking of children for commercial sexual or labour exploitation. **The Committee therefore requests the Government to take measures to ensure that thorough investigations and prosecutions of perpetrators of the sale and trafficking of children are carried out. The Committee also once again requests the Government to provide information on the practical application of the Trafficking in Persons Act 2008, including information on the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied in cases involving children under the age of 18 years.**

Clause (b). Use, procuring or offering of a child for prostitution, pornography or pornographic performances. Following its previous comments, the Committee notes the Government's information, in its report, that specific and coordinated interventions have been implemented by the relevant bodies, namely the national police and the SERNIC, to remove children from situations that are harmful to their health and development, including from areas where child prostitution is practised. The Committee

notes, however, that the Government does not provide information on measures taken to ensure that persons who use, procure or offer children for the purposes of prostitution or pornography are effectively punished through appropriate criminal penalties (see [2012 General Survey on the fundamental Conventions](#), paragraphs 637–639). **The Committee, therefore, urges the Government to take the necessary measures to ensure that appropriate criminal penalties which constitute an effective deterrent are established for the offences related to the use, procuring or offering of a child for prostitution and for the production of pornography or for pornographic performances. The Committee asks the Government to provide information on the measures taken in this regard.**

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. Following its previous comments, the Committee notes the Government's information regarding the results achieved through the implementation of the National Action Plan to Combat the Worst Forms of Child Labour (NAP) 2017–22, including: (i) the enrolment of 7,395,512 students in full primary education by 2022 (73 per cent of the overall target); (ii) the construction of 1,183 primary classrooms, benefitting more than 130,000 students (35 per cent of overall target); and (iii) the provision of school meal programmes that benefited 206,158 students in 42 districts and 340 schools.

While taking due note of this information, the Committee observes that most measures taken appear to only benefit children at the level of primary education. In this regard, it recalls that, according to a 2021 UNICEF report on the situation of children in Mozambique, the net attendance rate at the secondary level was just 20 per cent for boys and girls between the ages of 13 and 17 years in 2017, with the lowest rates appearing in the North of the country. **Considering that education is key in preventing the engagement of children in the worst forms of child labour, the Committee strongly encourages the Government to intensify its efforts to improve the functioning of the educational system, particularly by increasing the enrolment, attendance and completion rates at the lower secondary level. It requests the Government to provide information on the measures adopted and the results achieved in this regard.**

Application of the Convention in practice. The Committee notes with **regret** that the Government does not provide up-to-date data on the situation of working children, including those involved in the worst forms of child labour, in Mozambique. **The Committee urges the Government to take the necessary measures to ensure that sufficient data on the situation of working children, including those involved in the worst forms of child labour in Mozambique, is made available. It also once again requests the Government to supply information on the number of investigations, prosecutions, convictions and penalties applied for offences related to the worst forms of child labour. To the extent possible, all information provided should be disaggregated by age and gender.**

The Committee is raising other points in a request addressed directly to the Government.

Nepal

Minimum Age Convention, 1973 (No. 138) (ratification: 1997)

Previous comment

Article 1 of the Convention. National policy and application of the Convention in practice. Following its previous comments, the Committee notes the Government's information that the Nepal Labour Force Survey (NLFS III) was conducted in 2017–18 by the Central Bureau of Statistics in collaboration with ILO. The Committee notes that according to the Nepal Child Labour Report of 2021, published by the ILO based on the data drawn from the NLFS III, the results of the survey shows a declining trend of overall child labour in Nepal, reaching 1.1 million in 2018 from 1.6 million in 2008. A significant decline is observed in the number of children in hazardous occupations (0.62 million in 2008 to 0.20 million in

2018). The child labour prevalence for children between 5 and 13 years is 18 per cent while it is 10 per cent for children between 14 and 17 years. Female children are more likely to be engaged in child labour (17 per cent than that of male children 14 per cent). This report also indicates that the National Master Plan II (NMP-II) on Child labour 2018-2028 that aims to eliminate all forms of child labour by 2025 has been approved.

The Committee further notes from the Government's 6th and 7th periodic reports to the Committee on the Rights of the Child, submitted on 15 February 2022, that the labour inspectorate conducted 1,762 child labour inspections at workplaces during the 2020-21 fiscal year, and in collaboration with the National Child Rights Council and Civil Society Organisation prosecuted several employers and rescued more than 100 child labourers (paragraph 182). In addition, the Ministry of Labour, Employment and Social Security has been implementing child labour free local level campaigns where 26 local levels are already engaged and additional 50 local levels are set to join in 2021/22 (paragraph 181). ***The Committee welcomes the decline in the prevalence of child labour, including hazardous child labour and strongly encourages the Government to continue its efforts to ensure the progressive elimination of child labour, including through the implementation of effective measures within the framework of the National Master Plan II. It requests the Government to provide information on the concrete measures taken in this regard and the results achieved.***

Article 2(1). Scope of application and labour inspection. Children working in the informal economy. In its previous comments, the Committee noted that the Labour Act of 2017 guarantees the right of labour inspectors to inspect all workplaces, including the informal economy. It also noted section 94(1)(g) of the Labour Act which states that the labour inspector shall inspect and find out whether children are employed or not and if found employed, shall rescue them immediately and take action against the employer.

In response to its previous comments concerning strengthening the capacity of the labour inspectorate, the Government indicates that the Occupational Safety and Health Centre has planned for 23 training activities for labour inspectors on various occupational safety and health related matters in the year 2022-23. However, the Committee notes from the Nepal Child Labour Report of 2021, that 87 per cent of children engaged in child labour are working in the agricultural sector, including 13.2 per cent in the production of goods for own use. ***The Committee therefore urges the Government to continue to take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate services to better monitor children working in the informal economy or on their own account, particularly in the agricultural sector. It requests the Government to continue to provide information on the measures taken in this regard as well as the number and nature of violations relating to the employment of children and young persons detected by the labour inspectorate and the penalties imposed.***

Article 3. Minimum age for admission to hazardous work and determination of types of hazardous work. The Committee previously observed that pursuant to sections 2(a) and 3(2) of the Child Labour (Prohibition and Regulation) Act, 2000 the prohibition on hazardous and risky jobs listed under Schedule 1, applies only to children under 16 years. Similarly, section 43(2) of the Labour Rules, 1993 also prohibits the employment of persons under 16 years on dangerous machines and in operations which are hazardous to their health. The Committee noted the Government's indication that the draft list of types of hazardous work prohibited to children under 18 years, had been finalized and was awaiting adoption.

The Committee notes that the Government has not provided any information concerning the adoption of the draft list of types of hazardous work prohibited to children under 18 years, and instead refers to Schedule 1 of the Child Labour (Prohibition and Regulation) Act of 2000. The Committee, however, notes that according to section 7(6) of the newly enacted Act Relating to Children of 2018, every child, defined as persons who have not completed 18 years of age, shall be protected from being

exploited economically and from activities that are harmful to their health, physical, mental, moral or social development. **The Committee urges the Government to take the necessary measures to ensure the adoption of the draft list of types of hazardous work prohibited to children under 18 years, without further delay and to provide information on any progress made in this regard.**

Article 3(3). Admission to types of hazardous work from the age 16 years. The Committee previously noted that some of the activities contained in the proposed list of types of hazardous work, appeared to be prohibited only to children under 16 years. The Committee expressed the hope that the necessary measures would be taken to protect persons between 16 and 18 years who are engaged in hazardous types of work as laid down under *Article 3(3)* of the Convention.

The Committee notes the Government's information that it is committed to protecting persons between 16 and 18 years who are engaged in hazardous work through school enrolment programmes, family support programmes and alternative care options through the National Child Rights Council and Provincial and Local Child Rights Committees. **Recalling the provisions under Article 3(3) of the Convention, the Committee once again requests the Government to take the necessary measures to ensure that children between 16 and 18 years of age may be permitted to perform hazardous work only on the condition that their health, safety and morals are fully protected and that they have received adequate training in that activity.**

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

Previous comment

Articles 3(a) and 7(2)(b) of the Convention. Worst forms of child labour and time-bound measures to provide direct assistance for their removal and rehabilitation and social integration. Child bonded labour. In its previous comments, the Committee noted the various rehabilitation programmes provided to *Haliya* and *Kamaiya* (agricultural based bonded labour practices) and *Kamlari*, (offering girls for domestic work to families of landlords) girls by the Ministry of Land Management and Poverty Alleviation. It requested the Government to continue its efforts and to provide information on the measures taken and the results achieved in this regard.

The Committee notes the Government's information in its report that out of the total 27,570 liberated *Kamaiyas*, 25,195 were provided with land, while 12,820 out of 16,322 *Haliya* families were rehabilitated. It also notes the Government's information in its report under the Forced Labour Convention, 1930 (No. 29) that the Department of Education has institutionalized a system of extending educational services, by providing scholarships and hostel facilities, to freed *Kamlari* girls. **The Committee encourages the Government to pursue its efforts to ensure that all child victims of bonded labour receive appropriate services for their rehabilitation and social integration, including access to education. It requests the Government to continue to provide information on the measures taken in this regard and on the results achieved indicating the number of child bonded labourers that have been rehabilitated.**

Article 3(b). Use, procuring or offering of a child for the production of pornography or for pornographic performances. The Committee previously observed that the prohibition on the use or involvement of children in an "immoral profession" (sections 2(a) and 16(1)) of the Children's Act, 1992, applies only to children under 16 years. It noted the Government's information that the Children's Bill which contained provisions prohibiting the use, procuring or offering of all children under 18 years for the production of pornography or for pornographic performances was tabled in the Parliament for adoption.

The Committee notes that the Act Relating to Children, 2018 has been adopted. It notes with **satisfaction** that section 66(3) of this Act which deals with offences related to child sexual abuse makes it an offence to use a child (persons under 18 years as per section 2(j)) for the production of any obscene

material or act (subsection (d)); to engage or cause to engage a child in sexual exploitation (subsection h); or to use or cause to use a child in sexual abuse, including child pornography (subsection (j)). According to section 72, these offences are punishable with a fine of up to 100,000 rupees and imprisonment for up to five years. ***The Committee requests the Government to provide information on the application in practice of section 72 in relation to sections 66(3)(d), (h), (j) of the Act Relating to Children, 2018 for the offences related to the use, procuring or offering of children for the production of pornography or pornographic performances, indicating the number of cases reported, prosecutions, convictions and penalties applied.***

Articles 5, 7(1) and 7(2)(b). Monitoring mechanisms, penalties and direct assistance for child victims of the worst forms of child labour. Trafficking. In its previous comments, the Committee noted the activities undertaken by the National and District Committees on Controlling Human Trafficking and the Nepal Police in combating trafficking in persons. It also noted the establishment of a Child Helpline and a Human trafficking and Control Unit.

The Committee notes that the Government report does not contain any information concerning its efforts to combat trafficking in children as requested by the Committee in its previous comments. However, the Committee notes the Government's information in its report of November 2020 to the Human Rights Council that the Nepal Police created a High-level task force to prevent and control the incidence of trafficking and illegal migration, particularly of women and girls and investigate such crimes. Moreover, security check-posts in ten critical points and twenty boarder locations were established for carrying out intensive vigilance and security checks to prevent the incidence of trafficking (A/HRC/WG.6/37/NPL/1, paragraph 109). The Committee also notes the Government's information in its Combined 6th and 7th periodic reports submitted on 15 February 2022 to the Committee on the Rights of the Child (Report to the CRC, 2022), that the Service Centres established under the Nepal Police and the Missing Children Response Centres (MCRC) operate in partnership with the Nepal Police, provide support and services to child victims of trafficking and exploitation. Moreover, the Child Helpline provides counselling, legal aid, information, rescue and temporary shelter facilities for child victims of trafficking and vulnerable children. This report further indicates that the MCRC which are functional in 73 district police offices have supported 3619 children in 2020-21 and the Child helpline which is functional in 18 locations covering 72 districts have supported 10,348 children in 2020-21. According to the statistics of the Nepal Police Women, Children and Senior Citizens Service Directorate, a total of 75 child victims of trafficking (71 girls and 4 boys) were identified in 2019-20. Moreover, in 2020-21, more than 3,000 children were prevented from trafficking and reunited with families through boarder interceptions (paragraphs: 97, 107, 108, 136 and 189). ***The Committee strongly encourages the Government to continue its efforts to combat trafficking in children and to provide information on the activities undertaken by the Nepal Police and the High-level task force, in monitoring and identifying child victims of trafficking. It requests the Government to provide information on the number of cases of trafficking of children identified, investigations, prosecutions and convictions carried out and the penalties imposed. Lastly, it requests the Government to continue to provide information on the number of child victims of trafficking who have been provided support and assistance by the Child Helpline, the Missing Children Response Centres and the Service Centres.***

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. In its previous comments, the Committee noted the measures taken to improve access to education of children, including provisions of scholarships for girls and Dalit children. However, it noted that a significant number of children were out of school.

The Committee notes the Government's information that the Act Relating to Compulsory and Free Education, 2018 guarantees free and compulsory education at the primary level and free education up to secondary school (sections 6 and 20). The Government states that it has been concentrating its efforts on increasing retention and completion rates along with improving quality education and a child friendly

environment at schools. It indicates that a total of 35,674 schools were operational in 2019–20 which educated over 7 million children from grades 1 to 12 with a fair share of *Dalit* and indigenous children and a good share of girls' representation in schools. According to the Government's information, in 2019, the net enrolment rate was 97 per cent at the primary level (an increase from 64 per cent in 1991), 94.7 per cent at the lower secondary level, and 51.2 per cent at the higher secondary level with the ratio of girl to boy students increasing from 0.43 to 0.98 in basic education and from 0.43 to 1.01 in secondary education. The Government indicates that it continues to provide scholarships to girls, *Dalit* students and children from poor families. For the fiscal year 2019–20, and for 2020–21 respectively, 3.19 billion rupees and 2.7 billion rupees were allocated for such scholarships.

The Committee also notes from the Government's report to the Human Rights Council that 3,288,924 children, including children from the *Dalit* community, conflict affected families and highly marginalized and indigenous communities were provided with scholarships (A/HRC/WG.6/37/NPL/1, paragraph 69). The Committee further notes that the Government, in its report to the CRC, 2022, refers to various initiatives undertaken by the provincial governments for the protection of girls and to support their education, including: (i) the *Beti Bachao Beti Padhao (Save Girls and Educate Girls)* campaign that provides bicycles for girls, scholarship and educational supports; (ii) the *Bank Khata Chhoriko: Surakshya Jivan Bhariko (Daughter's Bank Account- Protection for Lifelong)* programme through which the Government deposits cash for the girl child from birth till she is 20 years of age; and (iii) the *Sanai Chhu Ma Badhna Deu, Bal Bibah Hoina Padhna Deu (I am Young let me grow, no child marriage but let me go to school)* programme which has been launched to provide special educational opportunities and protection for girls (paragraph 37). The Committee, however, notes that according to the UNESCO statistics over 74,280 children and 189,753 adolescents (including 117,859 female adolescents) were out of school in 2021. ***The Committee therefore strongly encourages the Government to continue its efforts to facilitate access to free, basic and quality education for all children, with a particular focus on girls and indigenous children. It requests the Government to continue to provide information on the measures taken in this regard and on the results achieved, particularly with regard to improving the functioning of the education system, increasing the school enrolment, attendance and completion rates, and reducing the school drop-out rates.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from such work and ensuring their rehabilitation and social integration. 1. Commercial sexual exploitation. The Committee previously noted from the Report of the National Human Rights Commission (NHRC) that a large number of girls and women were involved in commercial sexual exploitation in the entertainment establishments in the Kathmandu valley.

In response to its previous comments concerning the measures taken to remove children from commercial sexual exploitation and to provide assistance, the Committee notes that the Government only refers to a few laws that set the legal framework against trafficking and commercial sexual exploitation, including the Directives for Protection against Economic and Sexual Exploitation of Women and Girls in the Entertainment Sector, 2008. In this regard, the Committee notes from a report of Alliance 8.7 (a global partnership, including ILO, committed to achieving SDG Target 8.7) entitled Understanding Commercial Sexual Exploitation of Children in Nepal, 2018 that the adult entertainment sector is a high-risk environment for girls where commercial sexual exploitation is known to occur. Many of these workplaces have become a front for commercial sex and working in these places can lead girls to the sex industry. It is estimated that around 13,000 people in this sector started working as children under the age of 18 years. ***The Committee once again requests the Government to take effective and time-bound measures to remove children under 18 years of age from commercial sexual exploitation in the entertainment industry and to provide them with the appropriate assistance to ensure their rehabilitation and social integration. It requests the Government to provide information on the***

measures taken in this regard and the results achieved, indicating the number of children under 18 years removed and rehabilitated.

2. *Children working in brick kilns.* The Committee notes from the Report on Employment Relationship Survey in the Brick Industry in Nepal, 2020 conducted by the ILO, UNICEF and the Central Bureau of Statistics of Nepal that there are an estimated 17,738 children working in the brick kilns of Nepal with 44.5 per cent of these children involved in hazardous work. These children are mostly exposed to dust and flames, working excessively long hours, working at night and carrying heavy loads. ***Observing that the work carried out by children under 18 in the brick kiln industry is inherently hazardous, the Committee urges the Government to take the necessary measures to prevent all children under 18 years of age from working in the brick kiln industry. It also requests the Government to take effective and time bound measures to remove children from this worst form of child labour and to provide for their rehabilitation and social integration. The Committee requests the Government to provide information on the measures taken and the results achieved in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

New Zealand

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Previous comment

The Committee notes the observations of Business New Zealand communicated with the Government's report.

Articles 3(d) and 4(1) of the Convention. Hazardous work. Minimum age for admission to hazardous work. The Committee previously noted the Government's indication that children under 18 years cannot work in any restricted areas of licensed premises such as bars, licensed restaurants or clubs. However, it noted that by virtue of section 54(d) of the Health and Safety in Employment Regulations of 1995 (HSE Regulations), hazardous work was prohibited for children under 15 years of age. Moreover, sections 43–48 of the Health and Safety at Work (General Risk and Workplace Management) Regulations, 2016 require the person conducting a business or undertaking (PCBU) to ensure that no worker under the age of 15 years carries out or be present in any area of the workplace where: goods are manufactured or prepared for trade or sale; construction work is carried out; work related to logging or tree-felling is carried out; hazardous substances are manufactured, used or generated; or to lift heavy weights or perform other harmful tasks, or work at or with machinery.

The Committee notes the Government's information in its report that measures to assess options for raising the minimum age for engagement in certain types of hazardous work from 15 to 16 were initiated in 2018. However, the issue was then delayed due to various factors including the need to address COVID-19 pandemic situation. The Government indicates that the matter is still under consideration and efforts will be continued to raise the minimum age for participation in certain types of hazardous work to 16 years. In this regard, the Committee once again draws the Government's attention to Paragraph 4 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190) which addresses the possibility of authorizing the employment or work of young persons as from the age of 16 under strict conditions that their health and safety be protected and that they receive adequate specific instruction or vocational training in the relevant branch of activity. ***While acknowledging the difficulties imposed by the COVID 19 pandemic, the Committee expresses the hope that the discussions to which the Government refers will continue with the aim to ensure that the current review of the regulatory frameworks for young persons will take into consideration the requirement that employment or work in certain types of hazardous work by young persons between 16 and 18 years may be authorized only under strict conditions that their health, safety and morals be protected and***

that they receive adequate specific instruction or vocational training in the relevant branch of activity. The Committee requests the Government to provide information on any progress made in this regard.

Article 4(1) and (3). Periodic revision of the types of hazardous activities. Following its previous comments, the Committee notes the Government's indication that the matter concerning the revision of the list of types of hazardous work for young persons is still under consideration and that efforts to revise the list of types of hazardous work shall continue. The Committee once again reminds the Government that, pursuant to *Article 4(1) and (3)* of the Convention, the types of work which, by their nature or the circumstances in which they are carried out, are likely to harm the health, safety or morals of children under 18, shall be determined by national laws or regulations, and that this list shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned. **The Committee therefore expresses the firm hope that the Government will take the necessary measures to ensure that the revision of the regulatory framework for young persons, carried out in consultation with the organizations of employers and workers concerned, will result in the adoption of a concrete list of types of hazardous work prohibited to young persons under 18 years, including work in plants, work with machineries and vehicles used for agricultural purposes as well as certain types of work in the agricultural, construction and hospitality industries, as identified by the report of the Department of Labour. The Committee requests the Government to provide information on any progress made in this regard.**

Article 5. Monitoring mechanisms and application of the Convention in practice. The Committee notes the Government's information that the COVID-19 pandemic situation has significantly impacted the delivery of the Youth Health and Wellbeing Survey. The data collection has been completed and is expected to be published in the second half of 2022. The Committee also notes the Government's information that no marked reduction in the rate of work-related injuries for young workers has been observed from 2018-2020. According to the data provided by the Government in this regard, 19 incidents of work-related fatal injuries of children between 4 to 17 years were reported from 2018 to 2020. Of these, in four incidents children were employed, including one child of 15 years, while the rest of the incidents involved members of the public. In this regard the Committee also notes the observations made by the Business New Zealand that the workplace child fatalities are recorded as workplace accidents because they occur in a workplace but that in many instances, the child concerned lives on the premises and is not necessarily there as a paid employee. The Government further indicates that the overall work-related acute injury rates have reduced by 25 per cent from 2013 to 2020. **The Committee expresses the firm hope that the findings of the Youth Health and Wellbeing Survey will be published in the near future, and to provide a copy of the same so as to better understand the working conditions of young persons and health and safety outcomes.**

Nicaragua

Minimum Age Convention, 1973 (No. 138) (ratification: 1981)

Previous comments: [observation](#) and [direct request](#)

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee repeated its request to the Government for statistical information on the nature, extent and trends of the employment of children under 14 years of age, disaggregated by sex and by age. The Committee notes the Government's indication in its report that the Ministry of the Family, Adolescence and Childhood (MIFAM) has taken measures within families and communities to ensure children's full development within families, without having to work. To this end, through the "Traffic light Plan" ("Plan Semáforo"), MIFAM has raised awareness in families working on their own

account to reduce the time the children spend on the streets and in sectors at risk, thereby ensuring that the families enrol and keep their children in the education system.

The Committee once again notes with **regret** the lack of statistical information on the extent and trends of child labour in the country. **Recalling the importance of having up-to-date statistical data on the nature, extent and trends of child labour to examine the application of the Convention in practice, the Committee urges the Government to provide such information in its next report. The Committee also requests the Government to provide detailed information on the measures and programmes adopted to eradicate child labour, and their results.**

Article 2(3). Age of completion of compulsory schooling. In its previous comments, the Committee requested the Government to take the necessary measures to match the age of completion of compulsory schooling with the minimum age for admission to employment or work, which is 14 years. The Committee **deeply regrets** once again noting that the Government's report does not contain any information on the measures taken to raise the age of completion of compulsory schooling, set at 12 years, (in accordance with section 23 of the 2006 General Education Act) to at least 14 years, which is the declared minimum age for admission to employment. The Committee once again recalls that if compulsory schooling comes to an end before the age at which children are legally entitled to work, a vacuum may arise which regrettably opens the door for the economic exploitation of children (see the [2012 General Survey on the fundamental Conventions](#), paragraph 371). The Committee therefore reiterates the desirability of raising the age of completion of compulsory schooling so that it matches the minimum age of admission to employment. **The Committee therefore urges the Government to take, without delay, the necessary measures to guarantee compulsory schooling up to the minimum age for admission to employment or work, namely 14 years.**

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Previous comments: [observation](#) and [direct request](#)

Articles 3(d) and 7(2)(b) of the Convention. Hazardous work. Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. The Committee notes the Government's indication in its report under the Minimum Age Convention, 1973 (No. 138) that, between 2018 and the first quarter of 2022, 7,395 special child labour inspections were conducted, 927 of which in the agricultural sector and 36 in quarry and salt mines. As a result of those inspections, 12 boys and 4 girls were ordered to be immediately removed from their workplace. **The Committee requests the Government to continue taking measures to detect and penalize situations where children under 18 years are working in hazardous occupations, including in the agricultural and mining sectors. In this respect, it requests the Government to continue providing information on the number of inspections carried out, infringements detected and penalties imposed. Lastly, it requests the Government to continue taking measures to remove and rehabilitate children from this worst form of child labour, and provide information on the results achieved in this respect.**

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. The Committee notes the Government's indication in its report that in order to improve children's access to education, distance learning modalities have been implemented for primary and secondary levels, and that school kits have been provided. It notes that one of the objectives of the National Plan against Poverty for Human Development 2022–2026 is to have, by 2026, 94 per cent of children in school and 96.9 per cent completing school at primary level (6 to 12 years old); and 93 per cent of children in school and 95.6 per cent completing school at secondary level (12 to 17 years old). It also sets out training for 20,000 schoolteachers and headteachers in the proper use of educational technology, and for

260,000 students, teachers and parents through counselling measures among educational communities. The Committee also notes that the United Nations Committee on Economic, Social and Cultural Rights, in its 2021 concluding observations concerning Nicaragua, expressed its concern about shortcomings in the quality of school infrastructure and materials and in the content of curricula and the training of teachers, particularly in rural areas and on the Caribbean coast (E/C.12/NIC/CO/5, paragraph 46). ***Recalling that education is key in preventing the engagement of children in the worst forms of child labour, the Committee requests the Government to pursue its efforts to improve the functioning of the education system and to facilitate access to free, quality basic education, to all children. In this respect, it requests the Government to provide information on the results of the National Plan against Poverty for Human Development relating to primary and secondary education, including updated statistics on rates of enrolment, attendance and completion in school.***

The Committee is raising other matters in a request addressed directly to the Government.

Nigeria

Minimum Age Convention, 1973 (No. 138) (ratification: 2002)

Previous comment

Article 1 of the Convention. National policy and application of the Convention in practice. In response to its previous comments, the Committee notes the Government's information in its report on the results achieved following the implementation of the measures undertaken within the framework of the National Action Plan for the Elimination of Child Labour. Accordingly, a total of 6,933 children (3,858 boys and 3,075 girls) were rescued from child labour and 120 vulnerable households were empowered. The Government also states that the second cycle of its National Policy on the Elimination of Child Labour and its National Action Plan (NAP) 2021-2025 has been launched and is currently being implemented. A State Action Plan on child labour in alignment with the NAP has been developed in the six states of Ogun, Oyo, Ondo, Niger, Lagos and Ekiti. Moreover, capacity building workshops were conducted which benefitted 85 Child Labour Desk Officers and State Controllers of Labour.

With regard to the data collected through the National Reporting Template on child labour, the Committee notes the Government's information that from 2018 to 2020, 12,334 cases of child labour were detected, of which 2,772 children were empowered, 2,671 children were referred to social services, and 6,891 children were reunited with their families. The Government also indicates that from 2018 to 2019, 629 prosecutions were conducted, 308 fines were imposed, and 63 persons were sentenced to imprisonment.

The Committee further notes that the ILO project entitled "Accelerating Action for the Elimination of Child Labour in Supply Chains in Africa" launched in 2018 in Nigeria (ACCEL Africa Project in Nigeria) aims to eliminate child labour in supply chains in cocoa and artisanal small-scale gold mining supply chains. This project has undertaken several activities, including: (i) strengthened systems and provided stakeholders across spheres of the society with the skills and tools required to urgently eliminate child labour and achieve SDG Target 8.7 by 2025; (ii) carried out a series of interventions on child labour, including research, the provision of school kits and re-registration of out-of-school children and other direct and indirect interventions; and (iii) conducted capacity building workshops for 37 child labour desk officers to enhance the national response to eradicate child labour, to build the requisite skill and also to equip them with the modalities of implementing the actions for the elimination of child labour. The Committee notes from an ILO Press Release of May 2021 entitled: *ILO Supports Nigeria's Response to Child Labour Emergency* that in order to reduce child labour in supply chains, Nigeria is operating a Conditional Cash Transfer (CCT) Scheme with over 2.5 million households that are currently beneficiaries and which is envisaged to be extended to over one million vulnerable households within its Nigeria's Action Pledges. The Committee, however, notes from this Press release that about fifteen million

children under 14 years are engaged in economic activities and about half of this population are working in hazardous situations. While noting the measures taken by the Government, the Committee expresses its **deep concern** at the large number of children engaged in child labour and hazardous work in Nigeria. **The Committee therefore strongly urges the Government to intensify its efforts to ensure the elimination of child labour, including within the framework of the National Action Plan 2021-2025 and the ACCEL Africa Project in Nigeria and to provide information on the concrete measures taken in this regard and the results achieved. It also requests the Government to continue to provide information on the data collected with regard to the employment of children and young persons through the National Reporting Template. The Committee further requests the Government to continue to provide information on the manner in which the Convention is applied in practice, including updated statistical data on the employment of children and young persons, especially regarding children working in the informal economy, as well as extracts from the reports of inspection services and information on the number and nature of violations detected and penalties applied. To the extent possible, this information should be disaggregated by age and gender.**

With regard to the issues raised under Article 2(1), Article 3(2), Article 6, and Article 7(1) and (3), the Committee requests the Government to see the consolidated comments at the end.

Article 2(1). 1. Scope of application. Self-employment and work in the informal economy. In its previous comments, the Committee noted that section 60 of the revised Labour Standards Bill has broadened the definition of an employee to include, "other forms of employment both in the formal and informal economy" thereby ensuring protection for all working children, including self-employed children and children working in the informal economy.

2. Minimum age for admission to work. Following its previous comments concerning the discrepancies on the minimum ages for employment prescribed by the national legislation, the Committee notes the Government's information that the minimum age of 15 years for employment or work, which is the age specified at the time of ratification, has been incorporated in the revised Labour Standards Bill.

Article 3(2). Determination of hazardous work. In reply to its previous comments, the Committee notes the Government's information that the list of types of hazardous work prohibited to children under 18 years of age has been incorporated in the third schedule of the revised Labour Standards Bill.

Article 6. Apprenticeship. With regard to the minimum age for apprenticeship, the Committee previously noted that section 46(1)A of the revised Labour Standards Bill establish a minimum age of 14 years for apprenticeship programmes.

Article 7(1) and (3). Minimum age for admission to light work and determination of light work activities. In its previous comments, the Committee noted the Government's information that section 8(1)A of the revised Labour Standards Bill established a minimum age of 13 years for admission to light work and lays down the conditions and hours of work permitted to children of 13 years of age in light work activities. It also noted the Government's indication that Schedule two of the revised Labour Standards Bill provides for a list of activities that constitute light work.

Noting the Government's information that the Labour Standards Bill has been validated by the social partners, the Committee urges the Government to take the necessary measures to ensure that the revised Labour Standards Bill which:

- (i) provides for the protection of all working children, including self-employed children and children working in the informal economy;**
- (ii) provides for a minimum age of 15 years for admission to employment or work;**
- (iii) provides for a list of types of hazardous work prohibited to children under 18 years;**
- (iv) establishes a minimum age of 14 years for apprenticeship programmes;**

(v) establishes a minimum age of 13 years for light work activities, indicating the hours and conditions of light work; and

(vi) provides for a list of light work activities permitted to children of 13 years;

will be adopted in the near future. It requests the Government to provide information on any progress made in this regard as well as a copy once it has been adopted.

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

Previous comment

Articles 3(a) and 7(2)(b) of the Convention. All forms of slavery and practices similar to slavery and effective and time-bound measures. Compulsory recruitment of children for armed conflict and providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration. In its previous comments, the Committee noted from the Report of the Secretary-General on Children and Armed Conflict that an action plan was signed between the Civilian Joint Task Force (CJTF) and the United Nations to end and prevent the recruitment and use of children and a standing order was issued by the CJTF in this regard. However, it noted that although there was a decline in the total number of verified cases of recruitment and use of children for armed conflict, the Report of the Secretary-General indicated that grave violations and abuses committed by Boko Haram against children remained gravely disturbing, in particular the use of children as carriers of person-borne improvised explosive devices as well as the large number of abductions.

In response to its previous comments the Committee notes the Government's statement in its report that it has been identified that persons who forcefully recruit children in armed conflicts are members of the Boko Haram terrorist group. In order to put a stop to this practice, the Government through the Ministry of Defence is carrying out regular sensitization workshops and ensuring the registration of members of vigilante groups that are closely monitored by the Nigerian Security and Civil Defence Corps. The Government also indicates that child victims who have been released from the enclaves of Boko Haram are adequately rehabilitated through the Operation Safe Corridor carried out by the Ministry of Humanitarian, Disaster Management and Social Development and the Ministry of Defence.

The Committee also notes from the Report of the Special Representative to the Secretary-General for Children and Armed Conflict of July 2022, that the Governor of the State of Borno, (which has remained the epicentre of protracted armed conflict for more than 12 years) has signed the Child Rights Bill into law, which provides for the protection of children against recruitment and use for armed conflict and other forms of violence and exploitation (paragraph 22). The Committee further notes that the Secretary-General for Children and Armed Conflict, in her Report of June 2022, commended the CJTF for sustaining the progress on the 2017 action plan to end and prevent the recruitment and use of children, including through a child protection training plan and the establishment of child protection units in CJTF formations in Borno State, in collaboration with the United Nations (paragraph 271). However, the Report of the Secretary-General indicates that the United Nations verified 444 grave violations against 356 children in north-east Nigeria. A total of 63 children (9 boys and 54 girls), some as young as 6 years of age, were recruited and used by Boko Haram-affiliated and splinter groups: Jama'atu Ahlis Sunna Lidda'Awati Wal-Jihad (JAS) (45) and Islamic State West Africa Province (ISWAP) (18) in Borno State, mostly following abductions (paragraphs 263, 264).

While noting certain measures taken by the Government on the use of children in armed conflict, the Committee must once again **deeply deplore** the persistence of this practice, especially as it entails

other violations of the rights of the child, such as abductions, murders and sexual violence. **While acknowledging the complexity of the situation on the ground and the presence of armed groups in the north-east of the country, the Committee strongly urges the Government to continue to take measures, using all available means, to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment or use of children under 18 years of age into armed groups. It also urges the Government to take immediate and effective measures to ensure that thorough investigations and prosecutions of all persons, who forcibly recruit children under 18 years of age for use in armed conflict, are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to take effective and time-bound measures to provide for their rehabilitation and social integration and to provide information on the measures taken in this regard and on the results achieved.**

Articles 5 and 7(1). Monitoring mechanisms and penalties. In reply to its previous comments, the Committee notes the Government's information that the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) is undertaking systematic efforts to fight trafficking in persons including through conducting awareness-raising and capacity building programmes for the judiciary and law enforcement bodies on investigation and appropriate punishment for the offences under the Act on Trafficking in Persons (Prohibition) Law Enforcement, 2015. The Government also indicates that the investigation of child trafficking cases have led to the rescue of 2,966 child victims of trafficking. The Committee also notes that the United Nations Special Rapporteur for Trafficking in Persons, especially women and children, in her End of visit Statement of September 2018, commended the efforts of NAPTIP both at federal and state level, as well as the recent initiative of the Governor of Edo State to put in place the 'Edo State Task Force against Human Trafficking' chaired by the Edo State Attorney General.

However, this document states that Nigeria remains a source, transit and destination country for victims of trafficking and that internal trafficking of girls for the purpose of domestic servitude and sexual exploitation and boys for the purpose of child begging are rampant. Furthermore, the Committee notes with **concern** from the UNICEF Situation Analysis of Children in Nigeria, 2022 that the International Organization for Migration (IOM) reports that 18 per cent of trafficking victims in Nigeria are girls under the age of 18. Thousands of children from poor homes, mostly aged 15–17, are involved in domestic labour (page 17). **The Committee requests the Government to strengthen its efforts to combat child trafficking by ensuring that the perpetrators of these acts are identified and prosecuted, and that sufficiently effective and dissuasive sanctions are imposed. It requests the Government to continue providing information on the measures taken in this regard, including by the NAPTIP. The Committee further requests the Government to continue to provide statistical information on identified cases of trafficking in children under 18 years, the prosecutions brought, the convictions obtained and the penalties imposed.**

Article 7(2)(a) and (e). Preventing the engagement of children in the worst forms of child labour. Access to free basic education and special situation of girls. In its previous comments, the Committee noted the various measures and policies implemented in Nigeria for improving access to education, such as the National Policy on Inclusive Education; Safe School Initiative launched in the Northeast for students affected by the conflict; the Students Tutoring, Mentoring and Counselling Programme; and the School enrolment campaign. The Committee however, noted from the 2018 UNICEF report on education in Nigeria, that although primary school enrolment had increased in the recent years, the net attendance was still low at about 70 per cent. Nigeria still had 10.5 million out-of-school children, which was the highest in the world, with 60 per cent of them in northern Nigeria, where the conflict had deprived many children of access to education. The Committee had also noted that about 60 per cent of out-of-school children are girls, many of those who do enrol and then drop out.

The Committee notes that the Government report does not contain any information on this matter. The Committee notes from a Press Release of June 2022 of the UNICEF that the Katsina State Government, in partnership with UNICEF launched a cash transfer programme in June 2022, which will

provide learning opportunities for over 20,000 out of school children in the state and improve the socio-economic wellbeing of beneficiaries and their households. This Press Release also states that there are currently 536,132 out of school children in Katsina State. The UNICEF Press Release of January 2022 further states that a full one-third of Nigerian children are not in school and one in five out-of-school children in the world is Nigerian. Millions of Nigerian children have never been to a classroom. It is estimated that 35 per cent of Nigerian children who attend primary school do not attend secondary school. In March 2021, around 618 schools were closed in six northern states over the fear of attacks and abductions of pupils and staff. According to the UNICEF Situation Analysis of Children in Nigeria, 2022 the proportion of out-of-school children at primary school level was 27.2 per cent (26.5 per cent male and 27.9 per cent female) and 25.8 per cent at the secondary school level (24.4 per cent male and 27.3 per cent female). The highest rate of out-of-school children was reported in the North-East (39.8 per cent at the primary and 37.3 per cent at the secondary). The Committee further notes that according to the UNESCO estimates, the gross enrolment rates in 2018 at the primary and secondary level were 87.45 per cent and 43.51 per cent, respectively.

While noting certain measures taken by the Government, the Committee must express its **deep concern** at the significant number of children who are deprived of basic education. **The Committee therefore urges the Government to intensify its efforts to improve the functioning of the education system and to facilitate access for all children to free basic education, in particular for girls and children in the war-affected areas of north-eastern Nigeria. In this regard, the Committee requests the Government to take the necessary measures, to increase the school enrolment and attendance rates at the primary and secondary levels and to decrease the school drop-out rates. It requests the Government to continue to provide information on the concrete measures taken in this regard and to provide updated statistical information on the results obtained, particularly with regard to reducing the number of out-of-school children at the primary and secondary levels.**

Clause (d). Identifying and reaching out to children at special risk. Street children. In its previous comments, the Committee noted an increase in the number of children in street situations, including *almajiri* children (children in Islamic schools who are also sent out to beg). It also noted the Government's information concerning the establishment of the *Almajiri* Special Education Project with the aim to integrate basic education into Koranic schools.

The Committee notes an absence of information in the Government's report on this matter. The Committee notes with **concern** from the UNICEF Situation Analysis of Children in Nigeria, 2022, that 62 per cent of the over 10.1 million out of school children in Nigeria are boys, of which the majority, especially in the north, are made up of *Almajiri* children who are denied the right to education (page 55). **Considering that street children are at a higher risk of being engaged in the worst forms of child labour, the Committee once again requests the Government to take effective and time-bound measures to protect all street children, including almajiris from the worst forms of child labour and to provide for their rehabilitation and reintegration. It requests the Government to provide information on the measures taken in this regard as well as on the results achieved. It also requests the Government to provide information on the number of almajiri children who have been integrated through the Almajiri Special Education Project.**

In light of the situation described above, the Committee deplores the continued recruitment and use of children in armed conflict by armed groups, especially as it entails other violations of children's rights, such as abductions, murders and sexual violence. The Committee also observes with concern the large number of boys and girls under 18 who are victims of both cross-border and internal trafficking for labour and sexual exploitation. Lastly, the Committee must express its deep concern at the significant number of children deprived of basic education in the country, including Almajiri children (children in Islamic schools who are also sent out to beg). The Committee considers that this case meets the criteria set out in paragraph 114 of its General Report to be asked to come before the Conference.

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to supply full particulars to the Conference at its 111th Session and to reply in full to the present comments in 2023.]

North Macedonia

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 3(a), 5 and 7(1) of the Convention. Trafficking in children, monitoring mechanisms and penalties. The Committee notes the Government's information in its report that, section 12 of the Law on Child Protection (amended in 2013) prohibits the sale and trafficking of children, in addition to the relevant provisions in the Criminal Code. The Committee also notes the Government's information that, in 2014, 18 perpetrators were accused and convicted of child trafficking, while in 2015, six perpetrators were accused and convicted.

The Committee also notes the Government's indication that a training for representatives of professional services on the prevention of human trafficking was conducted by the Public Institutions of Social Protection for Children at Risk, involving 14 employees in four institutions. Moreover, another training was conducted for police officers and social workers with 75 participants, focusing on the identification and referral of potential victims of human trafficking. In addition, a training has also been provided to foster families for ten caregivers regarding direct assistance and protection of child trafficking victims. The Committee also notes that the National Commission for Combating Human Trafficking keeps a database on all types of exploitation of victims of human trafficking. In 2015, three victims of human trafficking subjected to sexual and labour exploitation were identified, of which two were children. ***The Committee requests the Government to pursue its efforts to combat trafficking in children, and to continue to provide information on the number of investigations, prosecutions, convictions and penal sanctions applied in this regard. It also requests the Government to pursue its efforts to ensure that victims of child trafficking are provided with appropriate protection and services. Lastly, the Committee encourages the Government to continue its efforts to strengthen the capacity of the mechanisms in place to ensure the effective monitoring and identification of child victims of trafficking.***

Article 3(c). Use, procuring or offering a child for illicit activities, in particular the production and trafficking of drugs. The Committee previously noted that the Law on the Protection of Children did not penalize adults who use children for the illegal production and trafficking of drugs. The Committee noted the Government's statement that the relevant governmental institutions were taking the necessary measures to protect children from misuse and other types of abuse with respect to the illicit production and trade of drugs. It requested the Government to take the necessary measures to ensure that the use of a child for illicit activities, particularly the production and trafficking of drugs, is prohibited.

The Committee notes with ***satisfaction*** that section 12 of the Law on the Protection of Children, which was amended in 2015, prohibits any illicit activities and the use of child labour for the production and trafficking of drugs, and psychotropic substances. ***The Committee requests the Government to provide information on the application in practice of section 12 of the Law on the Protection of Children, including the number and nature of infringements, investigations, prosecutions, convictions and sanctions applied.***

Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Children in street situations. The Committee previously noted that, according to data from the Ministry of Labour and Social Policy (MLSP), there were approximately 1,000 children in street situations in the country, 95 per cent of whom were Roma, and that labour exploitation and begging contributed to this phenomenon. The Committee further noted the Government's information on the measures adopted to protect children in street situations, including the expansion of the network of daily centres for street children. The Government also indicated that, in 2012, a national SOS helpline was created in order to receive calls from citizens who want to report on children in street situations.

The Committee notes the Government's information that the problem of children in street situations is becoming more prevalent. The MLSP is responsible for taking measures to reduce the number of street

children. To date, the MLSP has opened four day centres for street children in Skopje, Bitola and Prilep, as well as a 24-hour transit centre in Ohrid. Moreover, the MLSP financially supported a day care centre managed by a civil association in Shuto Orizari. The Committee further notes the Government's statement according to which it is often the parents who use their children to beg with them or make their children beg. Thus, the amendments to the Law on Family of 2014 provide that inducing a child to beg or using a child for begging shall be considered as abuse or severe neglect in the performance of parental duties, in which case the Centre of Social Work shall intervene. Depending on the situation, measures may include professional advice, constant supervision, temporary guardianship of the concerned child by the social work centre, and proceedings to withdraw parental rights or to file a criminal complaint before a competent court. **While taking due note of the measures taken by the Government, the Committee strongly encourages the Government to continue its efforts to protect children in street situations from the worst forms of child labour, and once again requests it to provide information on the number of children removed from the streets and who have benefited from rehabilitation and social integration measures.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Saint Kitts and Nevis

Minimum Age Convention, 1973 (No. 138) (ratification: 2005)

Previous comment: [direct request](#)

Article 3(1) and (2) of the Convention. Minimum age for admission to, and determination of, hazardous work. The Committee previously noted that the draft Labour Code was expected to be enacted by December 2017, and that the National Advisory Committee for the Elimination of Hazardous Child Labour, which would determine the types of work deemed to be hazardous for young persons under the age of 18 years would be established under the draft Labour Code and become operational following its entry into force.

The Committee notes the Government's information in its report that the Amalgamated Draft Labour Code, which went through its consultative processes in 2019, was expected to be reviewed by the National Tripartite Committee in the third quarter of 2021 to include changes related to the COVID-19 pandemic. The Government once again indicates that the National Advisory Committee for the Elimination of Hazardous Child Labour will become operational after the Labour Code has passed into Law. **In light of the fact that the Committee has been raising this issue for over ten years, the Committee expresses the firm hope that the draft Labour Code will be adopted in the near future. The Committee also requests the Government to take the necessary measures to ensure, without delay, the establishment of the National Advisory Committee for the Elimination of Hazardous Child Labour in order to ensure, in turn, the adoption of a list of types of hazardous work prohibited to children under the age of 18 years. The Committee requests the Government to continue providing information on the progress made in this regard.**

Article 3(3). Admission to hazardous work as from 16 years. The Committee previously requested the Government to take the necessary measures to ensure that the authorization of the performance of hazardous types of work for persons between the ages of 16 and 18 years is subject to strict conditions respecting protection and prior training, pursuant to *Article 3(3)* of the Convention.

It notes once again the Government's information that such provisions were included in phase II of the review of the draft Labour Code. **The Committee trusts that the draft Labour Code will be adopted in the near future, which provides for all the appropriate provisions ensuring the protection of the young persons, as required by Article 3(3) of the Convention.**

Article 7(1). Light work from the age of 13 years. The Committee previously noted that the Employment of Children (Restriction) Ordinance permits children under the age of 12 to be employed by their parents in agricultural or horticultural work on land belonging to their parents, as well as children between the ages of 12 and 16 years to work in non-hazardous daytime work outside of school hours, specifying a maximum of two hours of work on school days and Sundays (section 3(1)). The Committee trusted that the provisions in the Employment of Children (Restriction) Ordinance would be applied in conformity with *Article 7(1)* of the Convention, so that children below the age of 13 would not be authorized to undertake light work activities.

The Committee takes note of the Government's specification that the Employment of Children (Restriction) Ordinance has been amended by Act No. 19 of 2002 and is now part of the Employment of Women, Young Persons and Children Act, Chapter 18.10, also amended by Act No. 20 of 2002. The Committee notes that section 7(1) of this Act is a repetition of the previous section 3(1) of the Employment of Children (Restriction) Ordinance. The Committee notes the Government's indication that the National Tripartite Committee will review the legislation, in consultation with the Ministry of Social Development, to ensure that its provisions are in conformity with *Article 7(1)* of the Convention and that children below the age of 13 are not authorized to undertake light work activities. ***Considering that the Committee has been raising this issue for more than ten years, it urges the Government to take the necessary measures to ensure that the Employment of Women, Young Persons and Children Act, Chapter 18.10 is amended in a manner to prohibit children under the age of 13 to perform light work activities.***

Article 9(1). Penalties. The Committee previously noted the Government's indication that the fines prescribed for the violation of the child labour provisions under the Employment of Women, Young Persons and Children Act and the Employment of Children (Restriction) Ordinance had not been updated in recent years. However, it intended to review some of the fines during the consultative process of the Labour Code.

The Committee once again notes the Government's indication that the National Tripartite Committee, in consultation with the Ministry of Social Development, will review this issue in the hope of upgrading the fines. The Committee recalls that *Article 9(1)* of the Convention requires that all necessary measures, including the provision of appropriate penalties, be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention, and that even the best legislation only takes value when it is applied effectively (2012 General Survey on the fundamental Conventions, paragraph 410). ***The Committee therefore once again urges the Government to take the necessary measures to ensure that either the provisions of the draft Labour Code or those of the Employment of Women, Young Persons and Children Act will prescribe appropriate and upgraded fines for the violations of child labour provisions.***

Article 9(3). Keeping of registers. The Committee previously noted that section 12(1) of the Employment of Women, Young Persons and Children Act requires employers in an industrial undertaking to keep a register of all persons under the age of 16 years, which is the minimum age for admission to employment in Saint Kitts and Nevis, and that this provision is retained in the draft Labour Code. The Committee reminded the Government that, in accordance with *Article 9(3)* of the Convention, national laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer of persons whom he/she employs and who are less than 18 years of age, and that this provision applies to all sectors of employment, not just in industrial workplaces.

The Committee notes the lack of new information in the Government's report on this issue. ***It therefore urges the Government to take the necessary measures to ensure that the draft Labour Code contain provisions requiring employers in all sectors of the economy to keep registers of all persons***

employed under the age of 18, in conformity with Article 9(3) of the Convention. It requests the Government to provide information on the progress made in this regard in its next report.

The Committee reminds the Government that it may avail itself of ILO technical assistance in order to bring its legislation into conformity with the Convention.

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Previous comment: [direct request](#)

Article 3 of the Convention. Worst forms of child labour. Clause (c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs. The Committee previously noted that, according to a UNICEF report entitled “Situation Analysis of Children in Saint Kitts and Nevis” of 2017, the boy child who gets caught in the poverty trap often drops out of school to bring more income into the household or falls into gang activities and the drug trade (page 34). Noting the absence of provisions in the national legislation prohibiting the use, procuring or offering of a child under 18 years for illicit activities, in particular for the production and trafficking of drugs, the Committee reminded the Government that such activities are considered to be one of the worst forms of child labour and that, under the terms of *Article 1* of the Convention, each Member which ratifies the Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

The Committee once again notes the Government’s indication in its report that the issue of the prohibition of procuring or offering of children under the age of 18 years for illicit activities was forwarded to the Department of Child Protective Services to include it in relevant legislation, and that the Government would take measures to make the necessary legislative amendments. ***In light of the fact that the Committee has been raising this issue since 2011, the Committee once again urges the Government to take the necessary measures to ensure the adoption of specific provisions prohibiting the use, procuring or offering of children under the age of 18 years for illicit activities, in particular the production and trafficking of drugs, as a matter of urgency. It requests the Government to provide information on any progress made in this regard.***

Articles 3(d) and 4(1). Hazardous work. With regard to the adoption of the list of hazardous work, the Committee refers to its detailed comments under the Minimum Age Convention, 1973 (No. 138).

The Committee is raising another matter in a request addressed directly to the Government.

Sao Tome and Principe

Minimum Age Convention, 1973 (No. 138) (ratification: 2005)

Previous comment: [direct request](#)

Article 3(2) of the Convention. Determination of hazardous work. In its previous comments, the Committee noted the Government’s information that the list of types of hazardous work prohibited to children under 18 years would be made available with the new Labour Code and requested the Government to provide a copy of the list once it was adopted.

The Committee notes with **satisfaction** that Annex IV of the Labour Code No. 6/2019 provides for a list of hazardous types of work prohibited to children under 18 years, pursuant to section 274(3). The list contains 48 hazardous activities in various sectors including agriculture, livestock and forestry; fishing; mines and quarries; industrial establishments; the production and distribution of electricity and water; construction; transport and storage; health and social services; collective, social, personal and other services; as well as four types of work harmful to morality. ***The Committee requests the***

Government to provide information on the application in practice of section 274(3) and Annex IV of the Labour Code No. 6/2019 containing the list of hazardous types of work prohibited to children under the age of 18 years, including statistics on the number and nature of violations reported and penalties imposed.

The Committee is raising other matters in a request addressed directly to the Government.

Solomon Islands

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2012)

Previous comments: [observation](#) and [direct request](#)

The Committee notes the observations of the International Organisation of Employers (IOE) received on 25 August 2022, as well as those of the International Trade Union Confederation (ITUC) received on 1 September 2022 and requests the Government to reply to them. It also notes the discussion that was held by the Committee on the Application of Standards (the Conference Committee) at the 110th Session of the International Labour Conference (June 2022) regarding the application of the Convention by Solomon Islands in the absence of the Government.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

Articles 3(a) and (b), 5 and 7(1) of the Convention. Sale and trafficking of children and commercial sexual exploitation, monitoring mechanisms and sanctions. The Committee notes that the Conference Committee took positive note of the steps taken by the Government to bring its national legislation in conformity with the Convention, including with respect to the use, procuring and offering of children for prostitution, but expressed its deep concern about the persistence of the sale and trafficking of children, particularly girls, for sexual exploitation purposes. The Conference Committee urged the Government to ensure that cases concerning the sale and trafficking of children are duly investigated, prosecuted, and sanctioned, and to strengthen the capacities of law enforcement bodies for this purpose.

The Committee notes that the ITUC refers in its observations to the existence of evidence of cases of sale and trafficking of children by their parents to foreign workers for sexual purposes, including in nightclubs, motels, logging camps, and fishing vessels, as well as to the absence of information on measures of prevention, inspection, investigation, and prosecution of this practice.

The Committee also notes that, in its observations, the IOE points out to the need to continue adopting measures, as a matter of priority, to sensitize the community on this matter and to reinforce the capacities of the labour inspectorates, operators of the criminal justice system, social workers, and the private sector to effectively eliminate this worst form of child labour. It also encourages the Government to continue working with the most representative workers' and employers' organizations and international development cooperation organizations to prevent the use and procuring of children for prostitution.

The Committee notes that the Government refers in its report to one criminal case concerning child pornography which ended in the conviction of the offender. It further notes, the Government's indication that the Sexual Assault Unit within the Police Force investigates cases related to child commercial sexual exploitation. However, it notes that the Government does not provide information on cases related to the sale and trafficking of children for sexual exploitation or the use, procuring or offering of children for prostitution that have been investigated, prosecuted, and punished. **Therefore, the Committee urges the Government to take all the necessary measures to reinforce the capacities of the law enforcement bodies (including the police force, prosecutors, and judges) to ensure that: (i) thorough investigations and prosecutions are carried out against persons who engage in the sale or**

trafficking of children and/or the use, procuring and offering of a child for prostitution; and (ii) sufficiently dissuasive penalties are imposed on the offenders. In this regard, the Committee requests the Government to provide information on the number of prosecutions, legal proceedings, convictions, and penalties imposed for trafficking of children for sexual exploitation (section 145 of the Penal Code (Amendment) (Sexual Offences) Act 2016 and section 77 of the Immigration Act 2012), and for using, procuring or offering a child for prostitution (sections 141(2) and 143 of the Penal Code (Amendment) (Sexual Offences) Act 2016).

Clause (c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs. The Committee notes that the Conference Committee urged the Government to adopt, without delay, legislation prohibiting the use, procuring, or offering of a child under the age of 18 years for the production and/or trafficking of drugs. The Committee notes that the Government indicates that it will consider this matter to be included in the national penal legislation. **The Committee requests the Government to take all the necessary measures to ensure that the national legislation prohibits the use, procuring or offering of a person under 18 years for illicit activities, in particular for the production and trafficking of drugs.**

Clause (d) and Article 4(1). List of types of hazardous work. The Committee previously noted that the Government was developing a list of types of hazardous work prohibited for children under the age of 18 with the technical support of the ILO. The Committee notes that the Conference Committee urged the Government to adopt without delay, in consultation with the social partners, a list of types of hazardous work prohibited for children under the age of 18 years.

The Committee notes that the ITUC calls on the Government to finalize, in consultation with the social partners, the list of types of hazardous work prohibited for children under 18 years of age.

The Committee notes the Government's indication that section 49 of the Labour Act (which prohibits the work of persons under the age of 18 years in underground mines, on ships, as a trimmer or stoker, or during the night in any industry) is still applied pending the adoption of a list of types of hazardous work. The Government indicates that a copy of the list will be sent once it has been tabulated and adopted, in collaboration with the social partners. **The Committee urges the Government to take all the necessary measures to finalize a list of types of hazardous work prohibited for persons under 18 years of age, in consultation with the organizations of employers and workers concerned. The Committee requests the Government to provide a copy of the list once adopted.**

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. The Committee previously noted the adoption of Education Strategic Framework (ESF) 2016–2030, which sets out as a long-term objective achieving full completion to quality and relevant primary and junior secondary (age 13 to 15) education for all. The Committee notes that, in its observations, the ITUC refers to the disparities in access to and the quality of education between urban and remote areas. It also notes that the Conference Committee urged the Government to ensure access to free basic education to all children, particularly children from poor and disadvantaged families as well as children living in remote areas.

The Committee notes the Government's indication that the Gross Enrolment Ratio for primary and junior secondary education remains stable and in line with the population growth. At primary level, the Gross Enrolment Ratio increased from 136 to 142 per cent over 2016–20, signalling that over-age students were enrolled in schools. However, there was a five per cent increase in out-of-school children between 2018 to 2019 (from 8 to 13 per cent). The Government adds that one of the measures taken by the Ministry of Education to keep children in school was to abolish the sixth year exam in 2019 to allow students to advance into the seventh year of education (junior secondary education). **The Committee requests the Government to continue taking effective and time-bound measures to facilitate access to free basic education (both primary and lower secondary education) by all children, particularly children from poor and disadvantaged families and those living in remote areas. It also requests the**

Government to continue providing updated statistical information on school enrolment, completion and drop-out rates for primary and lower secondary education.

Application of the Convention in practice. With regard to the Conference Committee's and the Committee's request for updated statistical data on situations of worst forms of child labour, the Committee notes the Government's indication that it will intensify its efforts to implement a database containing statistical information on the nature, extent, and trends of the worst forms of child labour; the number of children protected by measures giving effect to the Convention; as well as the number and nature of offences reported, investigations, prosecutions, convictions, and penalties imposed. **The Committee hopes that the Government will be able to provide this information in its next report.**

The Committee encourages the Government to avail itself of ILO technical assistance in relation to the issues raised in this observation.

The Committee is raising other issues in a direct request addressed directly to the Government.

Syrian Arab Republic

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Application of the Convention in practice. The Committee previously noted that the ongoing conflict in the Syrian Arab Republic has had an alarming impact on children. It noted that the number of children affected by armed conflict in the Syrian Arab Republic has more than doubled, going from 2.3 million to 5.5 million, and the number of children displaced inside the Syrian Arab Republic has exceeded 3 million.

The Committee takes note of the Government's information in its report on the provisions of national legislation that give effect to the provisions of the Convention. However, the Committee notes that, according to the 2015 UNICEF report entitled "Small Hands, Heavy Burden: How the Syria Conflict is Driving More Children into the Workforce", four and a half years into the crisis, as a result of the war, many children are involved in economic activities that are mentally, physically or socially dangerous and which limit or deny their basic right to education. The report indicates that there is no shortage of evidence that the crisis is pushing an ever-increasing number of children towards exploitation in the labour market. Some 2.7 million Syrian children are currently out of school, a figure swollen by children who are forced to work instead. Children in the Syrian Arab Republic were contributing to the family income in more than three quarters of households surveyed. According to the report, the Syria crisis has created obstacles to the enforcement of national laws and policies to protect children from child labour, one of the reasons being that there are too few labour inspectors. In addition, there is often a lack of coherence between national authorities, international agencies and civil society organizations over the role of each, leading to a failure in national mechanisms to address child labour.

The Committee notes the Government's information in its 5th periodic report submitted to the Committee on the Rights of the Child published on 10 August 2017 (CRC/C/SYR/5, paragraph 203), that the Ministry of Social Affairs and Labour (MoSAL), in collaboration with the Syrian Authority for Family and Population Affairs (SAFPA) and in cooperation with other stakeholders, developed a National Plan of Action for the Elimination of the Worst Forms of Child Labour (NPA-WFCL). The Government also indicates that, in collaboration with UNICEF, the SAFPA conducted a survey on the worst forms of child labour in two industrial towns, Hassia in Homs and Haouch el Blas in Damascus.

While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee must once again express its **deep concern** at the situation of children in the Syrian Arab Republic who are affected by the armed conflict and driven into child labour, including its worst forms. **The Committee urges the Government to take immediate and effective measures in the framework of the implementation of the NPA-WFCL to improve the situation of**

children in the Syrian Arab Republic and to protect and prevent them from child labour. It requests the Government to provide information on the results achieved, as well as the results of the surveys conducted in Hassia and Haouch el Blas.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or similar practices. Forced recruitment of children for use in armed conflict. The Committee previously noted that the Syrian Arab Republic had adopted a series of legislative reforms such as Law No. 11/2013 which criminalizes all forms of recruitment and the use of children under the age of 18 years by armed forces and armed groups. It noted, however, that numerous armed groups in the Syrian Arab Republic, including the Free Syrian Army affiliated groups (FSA), the Kurdish People Protection Units (YPG), Ahrar al-Sham, Islamic State in Iraq and Sham/the Levant (ISIS/ISIL) and other armed groups were reportedly recruiting and using children for logistics, handling ammunition, manning checkpoints and as combatants.

The Committee notes the Government's indication in its report that armed terrorist groups recruit children and involve them in violence and exploit them sexually. The Committee notes that, according to the report of the Secretary-General on the situation of human rights in the Syrian Arab Republic of 9 June 2016 (A/70/919, paragraphs 50–52), from early 2015, UNICEF verified 46 cases of recruitment (43 boys, one girl, two unknown): 21 were attributed to ISIL, 16 to non-state armed opposition groups, five to armed groups affiliated with the Government, two (including a girl) to YPG, and two to government forces. UNICEF reported that children were increasingly recruited at younger ages (some as young as 7 years old) by non-state armed groups. Children's participation in combat was widespread and some armed opposition groups forced children to carry out grave human rights abuses, including executions and torture, while government forces allegedly submitted children to forced labour or used them as human shields. The Secretary-General also refers to reports from the OHCHR, according to which ISIL publicly announced, on 11 December 2015, the already known existence of a children's section among its ranks, the "Cubs of the Caliphate". The OHCHR also received allegations that ISIL was encouraging children between 10 and 14 years of age to join, and that they were training children in military combat.

The Committee further notes that, according to the report of the Secretary-General on children and armed conflict of 20 April 2016 (2016 report of the Secretary-General on children and armed conflict, A/70/836-S/2016/360, paragraphs 148–163), a total of 362 cases of recruitment and use of children were verified (the Secretary-General indicates that the figures do not reflect the full scale of grave violations committed by all parties to the conflict), and attributed to ISIL (274), the Free Syrian Army and affiliated groups (62), Liwa' al Tawhid (11), popular committees (five), YPG (four), Ahrar al-Sham (three), the Nusrah Front (two) and the Army of Islam (one). Of the verified cases, 56 per cent involved children under 15 years of age, which represents a significant increase compared with 2014. The Secretary-General further indicates that the massive recruitment of children by ISIL continued, and that centres in rural Aleppo, Dayr al-Zawr and rural Raqqah existed that provided military training to at least 124 boys between 10 and 15 years of age. Verification of the use of child foreign fighters increased as well, with 18 cases of children as young as 7 years of age. In addition, the recruitment and use of children as young as 9 years of age by the Free Syrian Army was also verified, as well as the recruitment of 11 Syrian refugee children from neighbouring countries by Liwa' al-Tawhid, and the YPG continued to recruit boys and girls as young as 14 years of age for combat roles. Recruitment and use by pro-government groups was also verified, with five cases of boys being recruited by the Popular Committee of Talkkalah (Homs) to work as guards and conduct patrols. In addition, there were allegations of the use of children by government forces to man checkpoints.

The Committee must once again **deeply deplore** the use of children in armed conflict in the Syrian Arab Republic, especially as it entails other violations of the rights of the child, such as abductions, murders

and sexual violence. It once again recalls that, under *Article 3(a)* of the Convention, the forced or compulsory recruitment of children under 18 years of age for use in armed conflict is considered to be one of the worst forms of child labour and that, under *Article 1* of the Convention, Member States must take immediate and effective measures to secure the elimination of the worst forms of child labour as a matter of urgency. **While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee once again strongly urges the Government to take measures, using all available means, to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children under 18 years of age into armed forces and groups. The Committee once again urges the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of all persons who forcibly recruit children under 18 years of age for use in armed conflict are carried out, and that sufficiently effective and dissuasive penalties are imposed in practice, pursuant to Law No. 11 of 2013. It requests the Government to provide information on the number of investigations conducted, prosecutions brought and convictions handed down against such persons.**

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. The Committee previously noted that, with approximately 5,000 schools destroyed in the Syrian Arab Republic, the resulting sharp decline in children's education continued to be a matter of great concern among the population. This report also indicated that more than half of Syrian school-age children, up to 2.4 million, were out of school as a consequence of the occupation, destruction and insecurity of schools.

The Committee notes that, according to the 2016 report of the Secretary-General on children and armed conflict (paragraph 157), the number of schools destroyed, partially damaged, used as shelters for internally displaced persons or rendered otherwise inaccessible has reached 6,500. The report refers to information from the Ministry of Education, according to which 571 students and 419 teachers had been killed in 2015, and from the United Nations that 69 attacks on educational facilities and personnel were verified and attributed to all fronts, which killed and maimed 174 children. The Committee further notes that, according to the report of the Special Rapporteur on the human rights of internally displaced persons on his mission to the Syrian Arab Republic of 5 April 2016 (A/HRC/32/35/Add.2, paragraphs 50–53), a further 400,000 children were at risk of dropping out of school as a direct result of conflict, violence and displacement. While basic education facilities were in place in the displacement centres visited by the Special Rapporteur, such centres, often using school buildings, offer only limited educational facilities.

According to the same report, UNICEF is working with local partners to reach some 3 million children and has implemented an informal education programme to reduce the number of children out of school. The inter-agency initiative “No Lost Generation” is a self-learning programme aimed at reaching 500,000 children who missed out on years of schooling. In areas hosting high numbers of displaced children, UNICEF is also rehabilitating 600 damaged schools and creating 300 prefabricated classrooms to accommodate 300,000 additional children. The Committee further notes that, according to UNICEF's 2016 Annual Report on the Syrian Arab Republic, UNICEF's interventions in education, focusing on quality, access and institutional strengthening, contributed to an increase in school enrolment from 3.24 million children (60 per cent of school-age population) to 3.66 million (68 per cent) between 2014–15 and 2015–16. These efforts also resulted in a decrease in the number of out-of-school children from 2.12 million (40 per cent) in 2014–15 to 1.75 million (32 per cent) in 2015–16.

Nevertheless, the Committee notes that, in his report, the Special Rapporteur on the human rights of internally displaced persons declares that the challenge of providing even basic education access to many internally displaced children is immense and many thousands of children are likely to remain out of education in the foreseeable future (A/HRC/32/35/Add.2, paragraph 53). The Committee is, therefore, once again bound to express its **deep concern** at the large number of children who are deprived of education because of the climate of insecurity prevailing in the country. **While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to strengthen its efforts and take effective and time-bound measures to improve the functioning of the educational system in the country and to facilitate access to free basic education for all Syrian children, especially in areas affected by armed conflict, and giving particular attention to the situation of girls. It requests the Government to provide information on concrete measures taken in this regard.**

Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from such work and ensuring their rehabilitation and social integration. 1. Children affected by armed conflict. The Committee previously noted that the recruitment and use of children in armed conflict in the Syrian Arab Republic had become common and that a great majority of the children recruited are trained, armed and used in combat.

The Committee notes the Government's indication that the competent authorities in the Syrian Arab Republic seek to care for children recruited in armed conflict and to help them return to ordinary life. However, the Committee notes with **deep concern** that the situation in the Syrian Arab Republic has not changed and that not only are there no reports of children having been withdrawn from armed forces and groups in the 2016 report of the Secretary-General on children and armed conflict but that, according to this report, children continue to be recruited and used in armed conflict. ***The Committee, therefore, strongly urges the Government to take effective and time-bound measures to prevent the engagement of children in armed conflict and to rehabilitate and integrate former child combatants. It once again requests the Government to provide information on the measures taken in this regard and on the number of children rehabilitated and socially integrated.***

2. Sexual slavery. The Committee previously noted that ISIS abducted hundreds of Yazidi women and girls, most of whom were sold as "war booty" or given as "concubines" to ISIS fighters, and that dozens of girls and women were transported to various locations in the Syrian Arab Republic, including Al Raqqa, Al Hasakah and Dayr az Zawr, where they were kept in sexual slavery.

The Committee notes with **regret** the absence of information in the Government's report on this issue. It notes that, according to the report of the Independent International Commission of Inquiry on the Syrian Arab Republic of 15 June 2016 entitled "They came to destroy: ISIS Crimes Against the Yazidis" (A/HRC/32/CRP.2), ISIS has sought to destroy the Yazidis through such egregious human rights violations as killings, sexual slavery, enslavement, torture and mental harm. The report indicates that over 3,200 women and children are still held by ISIS. Most are in the Syrian Arab Republic where Yazidi girls continue to be sexually enslaved and Yazidi boys indoctrinated, trained and used in hostilities. The report reveals that captured Yazidi women and girls over the age of 9 years are deemed the property of ISIS and are sold in slave markets or, more recently through online auctions, to ISIS fighters. While held by ISIS fighters, these Yazidi women and girls are subjected to brutal sexual violence and regularly forced to work in their houses, in many instances forced to work as domestic servants of the fighter and his family. The Committee **deeply deplores** the fact that Yazidi children continue to be victims of sexual slavery and forced labour. ***While acknowledging the difficult situation prevailing in the country, the Committee strongly urges the Government to take effective and time-bound measures to remove Yazidi children under 18 years of age who are victims of forced labour and sexual exploitation and to ensure their rehabilitation and social integration. It once again requests the Government to provide information on specific measures taken in this regard, and the number of children removed from sexual exploitation and rehabilitated.***

Clause (d). Identifying and reaching out to children at special risk. Internally displaced children. The Committee previously noted that, by early 2013, there were 3 million children displaced and in need of assistance inside the Syrian Arab Republic.

The Committee notes that, according to the report of the Special Rapporteur on the human rights of internally displaced persons on his mission to the Syrian Arab Republic of 5 April 2016 (A/HRC/32/35/Add.2, paragraph 67), the extent of the conflict and displacement has had a massive impact on children, many of whom have experienced violence first-hand and/or witnessed extreme violence, including the killing of family members and/or separation from family members. The Special Rapporteur indicates that child protection concerns and issues, including child labour resulting from parents' loss of livelihood, trafficking, sexual and gender-based violence and early and forced marriage, continue to be reported. Children have also been recruited and used by different parties to the conflict, both in combat and support roles. ***Observing with concern that internally displaced children are at an increased risk of being engaged in the worst forms of child labour, the Committee once again strongly urges the Government to take effective and time-bound measures to protect these children from the worst forms of child labour. It requests the Government to provide information on the measures taken in this regard and on the results achieved.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Uganda

Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 1 of the Convention. National policy designed to ensure the effective abolition of child labour and application of the Convention in practice. In its previous comments, the Committee noted that, according to the National Labour Force and Child Activities Survey 2011–12 of July 2013, a total of 2.009 million children aged 5–17 years were in child labour (approximately 16 per cent of all children). Moreover, a total of 507,000 children aged 5–17 years were found in hazardous work (25 per cent of the children in child labour). The Committee also noted that the Government acknowledged the problem of child labour in the country and recognized its dangers. It took due note of the Government's indication that the National Action Plan for the elimination of the worst forms of child labour in Uganda (NAP) was launched in June 2012. This NAP is a strategic framework that will set the stage for the mobilization of policy-makers and for awareness raising at all levels, as well as provide a basis for resource mobilization, reporting, monitoring, and evaluation of performance and progress of the interventions aimed at combating child labour. The Committee requested that the Government provide detailed information on the implementation of the NAP and its impact on the elimination of child labour.

The Committee notes the Government's information in its report that the NAP is in the process of being reviewed by the Government with support from the ILO. It also notes, from the ILO-IPEC field office, that a total of 335 children (156 girls and 179 boys) have been withdrawn from child labour and were given skills and livelihood training. Moreover, the child labour agenda has been promoted through the Education Development Partners Forum, Stop Child Labour Partners Forum and other national forums within the education and social development sectors. The Committee finally notes from the 2016 UNICEF Annual Report on Uganda that 7,226 children aged 5–17 years were withdrawn from child labour (page 28). While noting the measures taken by the Government, the Committee must express its **concern** at the number of children involved in child labour in the country, including in hazardous work. ***The Committee once again urges the Government to strengthen its efforts to ensure the effective elimination of child labour, especially in hazardous work. In this regard, it requests that the Government provide detailed information on the implementation of the reviewed NAP, once adopted. It also requests that the Government supply information on the application of the Convention in practice, particularly statistics on the employment of children under 14 years of age.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for prostitution. The Committee previously requested the Government to take the necessary measures to ensure that the procuring or offering of boys under 18 years of age for prostitution is prohibited, to impose criminal

responsibility on clients who use boys and girls under 18 years of age for prostitution, and to ensure that boys and girls under 18 years of age who are used, procured or offered for prostitution are treated as victims rather than offenders. The Committee noted that the Director of the Directorate of Public Prosecutions had indicated that efforts were being made to amend the Children's Act of 2000 to fully comply with the Convention on the prohibition of the use, procuring or offering of children for prostitution.

The Committee notes with **satisfaction** that section 8A of the Children's (Amendment) Act of 2016 provides that a person shall not engage a child in any work or trade that exposes the child to activities of a sexual nature, whether remunerated or not. It notes that the perpetrator is liable to a fine not exceeding one hundred currency points or to a term of imprisonment not exceeding five years.

Clause (d). Hazardous types of work. Children working in mines. The Committee observes that, according to the UNICEF Situation analysis of 2015, the Karamoja region has a high incidence of child labour in hazardous mining conditions (page 13). The Committee also observes, from the UNICEF Annual Report of 2016, that 344 girls and 720 boys were removed from the worst forms of child labour, such as mining, as a result of the support of the Ministry of Gender, Labour and Social Development to the strategic plan for the national child helpline. Moreover, the Committee notes that section 8 of the Children's (Amendment) Act of 2016 prohibits hazardous work, and that the list of hazardous occupations and activities in which the employment of children is not permitted (first schedule of the Employment of Children Regulations of 2012) includes the prohibition of children working in mining. The Committee notes with **concern** the situation of children working in mines under particularly hazardous conditions. **The Committee urges the Government to take the necessary measures to ensure the effective application of the Children's (Amendment) Act of 2016 and of the Employment of Children Regulations of 2012, so as to prevent children under 18 years of age from working in mines, and to provide the necessary and appropriate direct assistance for their removal.**

Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. 1. Orphans and vulnerable children. The Committee previously noted the Government's information that a range of factors has contributed to the problem of child labour, such as orphanhood arising from the HIV/AIDS pandemic. The Committee noted that orphans and vulnerable children (OVCs) in Uganda were recognized in both the Policy on orphans and other vulnerable children and the National Strategic Plan on OVCs. The Committee also noted that the policies and activities of the National Action Plan on Elimination of the Worst Forms of Child Labour in Uganda 2013–17 (NAP) include orphans and HIV/AIDS affected persons in its target groups. However, noting with concern the large number of children orphaned as a result of HIV/AIDS, the Committee urged the Government to intensify its efforts to ensure that such children are protected from the worst forms of child labour.

The Committee notes the absence of information on this point in the Government's report. The Committee however notes that, according to a report by the Uganda AIDS Commission, entitled: "The Uganda HIV and AIDS country progress report: July 2015–June 2016", approximately 160,000 OVCs received social support services and a mapping of OVC actors was conducted, among other achievements. The Committee also notes that the Second National Development Plan 2015/16–2019/20 outlines two programmes to support OVCs: the SUNRISE-OVC (Strengthening the Ugandan National Response for Implementation of Services for OVCs), and the SCORE (Strengthening Community OVC Response). While taking due note of the strategic plans developed by the Government and the decrease in the number of OVCs, the Committee notes with **concern** that there are still approximately 660,000 HIV/AIDS orphans in Uganda, according to UNAIDS estimates for 2015. **Recalling that children orphaned as a result of HIV/AIDS and other vulnerable children are at particular risk of becoming involved in the worst forms of child labour, the Committee urges the Government to strengthen its efforts to protect these children from the worst forms of child labour. It requests the Government once again to provide information on specific measures taken in this respect, particularly in the framework of the Policy on orphans and other vulnerable children, the National Strategic Plan on OVCs, the SUNRISE-OVC and the SCORE, and the results achieved.**

2. Child domestic workers. The Committee previously noted that the list of hazardous occupations and activities prohibits the engagement of children under 18 years of age in several activities and hazardous tasks in the sector of domestic work. However, the Committee noted that, according to the National Labour Force and Child Activities Survey 2011–12 of July 2013, approximately 51,063 children, that is 10.07 per cent of the number of children aged 5–17 years engaged in hazardous work in Uganda, are domestic housekeepers, cleaners and helpers. In this regard, the Committee observed that domestic workers form a

group targeted by the NAP, and requested the Government to provide information on the impact of the NAP on the protection of child domestic workers. The Committee notes the absence of information from the Government in this regard. **Recalling that children in domestic work are particularly vulnerable to the worst forms of child labour, including hazardous work, the Committee once again requests the Government to provide information on the impact of the NAP on the protection of child domestic workers, particularly the number of child domestic workers engaged in hazardous work who have benefited from initiatives taken in this regard.**

3. *Refugee children.* The Committee observes that, according to the UNICEF Uganda situation report of 31 May 2017, there are over 730,000 refugee children in Uganda, among more than 1.2 million refugees. The Committee also observes from the joint Updated regional framework for the protection of South Sudanese and Sudanese refugee children (July 2015–June 2017), developed by UNHCR, UNICEF and NGOs, that South Sudanese and Sudanese refugee children are subjected to child labour in Uganda (page 5). The Committee finally notes that a Uganda Solidarity Summit on Refugees took place in Kampala in June 2017 to showcase the Uganda model of refugee protection and management, to highlight the emergency and long-term needs of the refugees and to mobilize resources. **While acknowledging the difficult refugee situation prevailing in the country and the efforts provided by the Government, the Committee strongly urges the Government to take effective and time-bound measures as a matter of urgency to specifically protect refugee children from the worst forms of child labour and to provide the necessary and appropriate direct assistance for their removal and for their rehabilitation and social integration. It requests the Government to provide information on the measures taken in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 123** (Gabon); **Convention No. 124** (Kyrgyzstan); **Convention No. 138** (Afghanistan, Cabo Verde, Cambodia, Canada, Chad, Comoros, Congo, Cuba, El Salvador, Eswatini, Gabon, Grenada, Guatemala, Guinea, Guinea Bissau, Indonesia, Iraq, Israel, Kenya, Lao People's Democratic Republic, Lebanon, Lesotho, Mauritania, Morocco, Mozambique, Nepal, Nicaragua, Nigeria, North Macedonia, Rwanda, Saint Kitts and Nevis, Sao Tome and Principe, South Sudan, Uganda); **Convention No. 182** (Afghanistan, Argentina, Australia, Barbados, Benin, Botswana, Brazil, Cabo Verde, Cambodia, Canada, Central African Republic, Chad, Comoros, Cook Islands, Croatia, Cuba, Democratic Republic of the Congo, Dominican Republic, El Salvador, Eswatini, Ethiopia, Gabon, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Indonesia, Iraq, Israel, Kenya, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libya, Madagascar, Malawi, Malaysia, Mali, Mauritania, Montenegro, Morocco, Mozambique, Nepal, Netherlands: Aruba, Nicaragua, Nigeria, North Macedonia, Rwanda, Saint Kitts and Nevis, Sao Tome and Principe, Solomon Islands, South Sudan, Syrian Arab Republic, Uganda, Vanuatu).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Conventions Nos 77, 78, 79** (Kyrgyzstan).

Equality of opportunity and treatment

Afghanistan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)

Previous comment

The Committee notes with **deep concern** that the Government's report, due since 2019, has not been received. In light of its urgent appeal launched to the Government in 2021, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

Articles 1(b) and 2 of the Convention. Equal remuneration for work of equal value. Legislation and practice. The Committee previously noted that while some of the provisions of the Labour Law (namely sections 8, 9(1), 59(4) and 93) read together provided some protection against discrimination based on sex with respect to remuneration, they did not reflect fully the principle of the Convention. In light of the lack of information available regarding any progress made in the revision process of the Labour Law, the Committee wishes to point out that the concept of "work of equal value" lies at the heart of the fundamental right of equal remuneration for men and women for work of equal value as it permits a broad scope of comparison, including, but going beyond equal remuneration for "equal", "the same" or "similar" work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value (see the [2012 General Survey on the fundamental Conventions](#), paragraph 673). **The Committee asks that all necessary steps be taken to give full legislative expression and effect to the principle of equal remuneration for men and women for work of equal value set out in the Convention. It requests information on any progress made in that regard.**

Gender pay gap and occupational gender segregation. The Committee notes that, according to an ILO assessment made in January 2022, since the change of power in August 2021 and the ensuing economic crisis as well as the restrictions on women's participation in the economy, it was estimated that more than 900,000 jobs could be lost by mid-2022 (ILO Brief, Employment prospects in Afghanistan: A rapid impact assessment, January 2022). Furthermore, the Committee notes from the report of the United Nations Special Rapporteur on the situation of human rights in Afghanistan that, by March 2022, 61 per cent of women had lost their job or income generating activities (A/HRC/51/6, 6 September 2022, paragraph 38). The Committee notes with **deep concern** this information and refers to its comments made on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) regarding the bans and increasing discriminatory restrictions imposed on women's employment since August 2021. **The Committee therefore urges that all steps be taken to address occupational gender segregation and promote women's participation in the labour market, in particular in jobs with career prospects and higher pay, including by removing any restrictions regarding women's access to education, vocational training and employment.**

Awareness-raising and enforcement. **The Committee requests information on any activities undertaken: (i) to raise public awareness of the principle of equal remuneration for men and women for work of equal value, the procedures and remedies available; and (ii) to enhance women's access to formal justice mechanisms in case of discrimination in remuneration.**

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1969)

Previous comments: [observation](#) and [direct request](#)

The Committee notes with **deep concern** that the Government's report, due since 2019, has not been received. In light of its urgent appeal launched to the Government in 2021, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

Articles 1(1)(a), 2 and 3 of the Convention. Discrimination based on sex. Restrictions on women's access to education, vocational training and employment. The Committee notes that since August 2021, high-level United Nations (UN) bodies have expressed deepest concern regarding the increasing deterioration of human rights and fundamental freedoms of women and girls in the country (UN Special Rapporteur on the situation of human rights in Afghanistan, Statement, Urgent Debate on the situation of women and girls in Afghanistan, 1 July 2022; UN Security Council, Statement on the situation in Afghanistan, 24 May 2022; and High Commissioner for Human Rights, A/HRC/49/24, 4 March 2022). According to these bodies, as a result of the policies and practices adopted, severe restrictions have been imposed on women's and girls' freedom of movement, access to education, vocational training and employment. The Committee notes, more particularly, that: (1) since August 2021, women have been excluded from the workforce. They are also absent from the public administration, where all members are men; (2) since September 2021, women and girls have been denied access to secondary and higher education. Even where girls have been allowed to attend schools, instruction has been restricted due to the absence of women teachers; (3) the Ministry of Women's Affairs and the Afghanistan Independent Human Rights Commission have been disbanded; and (4) specialized courts addressing the elimination of violence against women and prosecution offices have also been closed, thus leaving women without access to justice. The Committee notes that, in its resolution 50/14 on the situation of human rights of women and girls in Afghanistan, adopted on 8 July 2022, the Human Rights Council specifically: (1) condemned in the strongest possible terms all human rights violations and abuses committed against all individuals, including women and girls, in Afghanistan, including all forms of discrimination and violence, including sexual and gender-based violence; (2) called upon the Taliban in particular to reverse the policies and practices that currently restrict the human rights and fundamental freedoms of Afghan women and girls, to ensure that women and girls have opportunities and access to inclusive and quality education at all levels, equal to those afforded to men and boys, and to immediately open schools for girls of all ages; and (3) called for measures to ensure that victims of sexual and gender-based violence have access to justice and to effective remedies and reparations (Human Rights Council resolution 50/14, A/HRC/RES/50/14, 14 July 2022). Furthermore, the Committee notes from the recent report of the Special Rapporteur on the situation of human rights in Afghanistan that: (1) "the restrictions on Afghan women are disproportionately affecting their ability to sustain themselves, thereby further diminishing their enjoyment of other basic rights"; (2) "in early 2021, about 17,369 women-owned businesses were creating over 129,000 jobs, over three-quarters held by women, and many more unregistered women-owned businesses operated in the informal economy [and] by March 2022, 61 per cent of women had lost their job or income generating activities ..."; (3) "in the informal sector, women can no longer take products to market due to movement restrictions and the closure of many women's markets"; (4) "women who continue to work often face harassment and abuse"; (5) "women have been excluded from the de facto justice system"; and (6) "female civil servants, except those doing jobs in health, security and education which cannot be carried out by men, were directed to stay home until conditions enable them to return to work in accordance with Sharia, although their male counterparts were called back" (A/HRC/51/6, 9 September 2022, paragraphs 38 and 39). The Committee **strongly deplores** the discriminatory prohibitions, bans and restrictions based on sex imposed on girls and women, in particular regarding their access to, and remaining in, education,

vocational training and employment, both in the public and private sectors, and on their enjoyment of other human rights and fundamental freedoms, as well as their exposure to sexual and gender-based violence. **The Committee therefore strongly urges that all steps be taken to: (i) remove without delay all bans, discriminatory practices and unequal treatment based on sex imposed on girls and women to prohibit, limit or impede their access to secondary and higher education, vocational training, employment and all types of occupations in all sectors; and (ii) prevent and address violence and harassment against girls and women.**

The Committee asks for information on the measures taken to that end and the results achieved on the equal participation of women in employment and occupation, including by providing statistical information, disaggregated by sex and occupation, on the participation of girls and women in education, vocational training and employment in both the public and private sectors.

Articles 1, 2 and 3. Protection against discrimination. Legislation. The Committee notes that, in its 2020 report to the UN Committee on the Elimination of Racial Discrimination (CERD), the Government indicated that a draft Anti-Discrimination Law had been developed, which defines direct and indirect discrimination and prohibits discrimination in employment and occupation (CERD/C/AFG/2-16, 27 July 2020, paragraphs 28 and 47). **Recalling that the prohibition of discrimination in section 9 of the Labour Law is formulated in very broad terms, the Committee asks that all necessary measures be taken to explicitly define and prohibit in law direct and indirect discrimination based on at least all of the grounds listed in Article 1(1)(a) of the Convention (namely, race, colour, sex, religion, political opinion, national extraction and social origin), as well as any other grounds determined in consultation with employers' and workers' organizations, in accordance with Article 1(1)(b), covering all aspects of employment and occupation, both in the private and public sectors. The Committee asks for information on any progress made in that regard.**

Article 1(1)(b). Discrimination against persons with disabilities, in particular women and girls. The Committee recalls that, while section 15 of the Law of Rights and Benefits of Persons with Disabilities provides for equal rights for persons with disabilities in terms of social, economic and educational participation, in practice, persons with disabilities had very low education and employment levels. The Committee notes that, in its resolution 50/14 on the situation of human rights of women in Afghanistan, the Human Rights Council expressed deep concern at the situation currently faced by girls and women with disabilities who are often subject to multiple, aggravated or intersecting forms of discrimination and disadvantages (A/HRC/RES/50/14, 14 July 2022). **The Committee calls once again for specific actions to be taken in order to facilitate access to education and vocational training and promote employment opportunities of persons with disabilities, in particular girls and women, both in the private and public sectors.**

Monitoring and enforcement. The Committee notes that, in her March 2022 report on the situation of human rights in Afghanistan, the UN High Commissioner for Human Rights expressed specific concerns about the fact that, "since August 2021, the previously operating legal and justice systems became dysfunctional, with little clarity as to applicable laws and the side-lining of justice sector personnel. Since then, the de facto authorities have gradually sought to resume the functioning of a country-wide justice system and courts under Islamic law with numerous appointments at the de facto ministry of justice" and de facto courts and initiated "an ongoing review of formal law's asserted compliance with both Islamic Law and with the objectives and policies of the new de facto administration. In the meantime, de facto authorities continued administering justice in lieu of the former judiciary in a decentralized manner in consultation with religious scholars, elders, and local communities" (A/HRC/49/24, 4 March 2022, paragraph 60). The Committee wishes to recall that Afghanistan has a binding legal obligation to uphold the fundamental human rights and freedoms guaranteed in customary international law and human rights treaties that the country is signatory to, including the Convention which it has ratified. **The Committee therefore urges that all steps be taken**

to ensure access to non-discriminatory formal justice mechanisms and effective remedies and to organize activities to raise public awareness of the principles of non-discrimination and equality.

In light of the situation described above, the Committee notes with deep concern the repeated failure of the Government to respond to the Committee's comments since 2019. The Committee also must express its deep concern at the significant deterioration of the situation of women and girls, including the situation of vulnerable groups of women, since 2021. In this context, it deplores the numerous acts of discrimination based on sex against women and girls thereby impairing the enjoyment of their human rights and their access to, and retention in, education at all levels, vocational training and employment in all the sectors of the economy and increasing their exposure to sexual and gender-based violence. The Committee also deplores the lack of legal framework explicitly defining and prohibiting direct and indirect discrimination based on at least all the grounds set out in the Convention, in all aspects of employment and occupation, as well as the lack of access to non-discriminatory formal justice mechanisms and effective remedies. The Committee considers that this case meets the criteria set out in paragraph 114 of its General Report to be asked to come before the Conference.

[The Government is asked to supply full particulars to the Conference at its 111th Session and to reply in full to the present comments in 2023.]

Algeria

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1962)

Previous comment

Articles 1–4 of the Convention. Assessment of the gender pay gap. The Committee recalls that, according to the data provided by the Government in its previous report, the wage gap in 2011 was in favour of women in almost all sectors, and it considered that this unusual situation could be explained by the low participation rate of women in the labour market and the high level of positions that they occupy. In effect, as recalled in its observation under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), women working in Algeria in the formal sector generally have high qualification levels and often occupy high ranking positions in sectors occupied predominantly by men and, therefore, in well-paid positions. The Committee notes that, in its report, the Government does not provide updated statistical information, disaggregated by sex, on the remuneration of men and women by occupational category, in the private and public sectors. It also notes that data on wages, published regularly by the Office for National Statistics (ONS), are still not disaggregated by sex, which does not allow trends in the gender pay gap to be monitored. The Committee further notes that, according to the survey, “Activity, Employment and Unemployment”, published by the ONS in May 2019: (1) the rate of economically active women (17.3 per cent) remains very low compared with that of men (66.8 per cent); and (2) 62.2 per cent of economically active women hold a higher education degree. It also notes that, according to the World Economic Forum’s annual Global Gender Gap Report 2022, Algeria was ranked third out of 146 countries assessed in terms of equal pay for men and women for *similar* work, which is significant progress (it was ranked 15th out of 149 countries assessed in 2018). However, the Committee emphasizes that the notion of equal remuneration for men and women for similar work is narrower than the principle of equal remuneration for men and women for work of equal value, enshrined in the Convention, which encompasses not only “equal”, “the same” and “similar” work, but also work that is of an entirely different nature, which is nevertheless of equal value (see the [2012 General Survey on the fundamental Conventions](#), paragraphs 672–675). Lastly, the Committee notes that the same report indicates that women’s estimated annual income is clearly lower than that of men (US\$3,310 for women and US\$18,000 for men), which ranks the country in 144th place out of 146 countries assessed. ***In order to follow the trends on pay gaps over time and across sectors –***

particularly given the low participation of women in the labour market and their high levels of qualification – the Committee once again requests the Government to take the necessary steps to regularly collect and analyse statistical data on the remuneration of men and women, by occupational category and in the public and private sectors (including the informal economy if possible), and to supply these data disaggregated by sex.

Articles 1(b) and 2(2)(a). *Equal remuneration for work of equal value. Civil service. Legislation.* For several years, the Committee has been emphasizing that Ordinance No. 06-03 of 15 July 2006, issuing the General Civil Service Regulations, which prohibits all discrimination, particularly on the grounds of sex (section 27), does not contain any provisions explicitly providing for equal remuneration for men and women for work of equal value. The Committee recalls that, in the absence of a clear legislative framework, it is particularly difficult for men and women workers to assert their right to equal remuneration for work of equal value vis-à-vis employers, the relevant bodies and the courts. It notes with **regret** that no legislative amendment has been introduced in this regard. **The Committee therefore once again urges the Government to take the necessary steps to: (i) amend Ordinance No. 06-03 of 15 July 2006 issuing the General Civil Service Regulations, in order to incorporate a provision explicitly providing for equal remuneration for men and women for work of equal value; and (ii) assess the pay gaps between men and women in the civil service and raise awareness among public officials and their organizations, as well as personnel managers, of the principle of equal remuneration for men and women for work of equal value.**

Article 3. *Objective evaluation and classification of jobs in the civil service.* The Committee notes the information provided by the Government on the occupational evaluation of civil servants. It notes, however, that there appears to be some confusion between the concept of performance evaluation – which aims at evaluating the way in which a given worker carries out his or her duties – and the concept of objective job evaluation, namely the calculation of the relative value of jobs that do not have the same content on the basis of the duties to be performed. An objective job evaluation must evaluate the position and not the individual worker. There needs to be an examination of the respective tasks involved, undertaken on the basis of entirely objective and non-discriminatory criteria to avoid the assessment being tainted by gender bias. While the Convention does not prescribe any specific method for such an examination, Article 3 presupposes the use of appropriate techniques for objective job evaluation, comparing factors such as skill, effort, responsibilities and working conditions. For further information, the Committee draws the Government's attention to paragraphs 695–709 of its 2012 General Survey on objective job evaluation. **Therefore, the Committee once again requests the Government to: (i) review the job evaluation and classification method to ensure that the classification of jobs and the applicable salary scales in the public service is free from any gender bias and does not result in undervaluation of jobs mainly occupied by women; (ii) encourage the use of job evaluation methods based on objective criteria, such as skills and qualifications, effort, responsibility and working conditions; and (iii) provide statistical information, disaggregated by sex, on personnel numbers in the respective categories (A, B, C and D) in the public service. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1969)

Previous comment

Article 1 of the Convention. *Protection against discrimination. Legislation. Private sector workers.* For many years, the Committee has been emphasizing that: (i) section 6 of Act No. 90-11 of 21 April 1990 on labour relations is of a very general nature as it provides that workers are entitled to “protection against

all discrimination regarding the occupation of a post other than distinctions made on the basis of their ability and merit"; (ii) section 17 of that Act does not cover all of the grounds of discrimination in employment and occupation listed by the Convention, as it targets only discrimination "based on age, sex, social or marital status, family relations, political beliefs [and] membership or non-membership of a trade union"; and (iii) section 17 does not provide for penalties for discriminatory conduct by the employer or any other person toward a worker in all aspects of work and employment (recruitment, promotion, dismissal and so forth). It merely provides that "any provision in a collective agreement or employment contract that may generate discrimination of any kind among workers regarding employment, remuneration or working conditions" is null and void. The Committee notes with **deep regret** that no legislative amendment of these provisions has been introduced to date. **Emphasizing once again the importance of establishing a comprehensive protection mechanism for private sector workers against discrimination in employment and occupation, the Committee urges the Government to take all necessary measures, in cooperation with the workers' and employers' organizations, to ensure that: (i) sections 6 and 17 of Act No. 90-11 of 21 April 1990 explicitly prohibit all forms of direct or indirect discrimination, on at least all of the grounds listed in Article 1(1)(a) of the Convention, and all other grounds specified pursuant to Article 1(1)(b); and (ii) section 17 of the same Act prohibits discriminatory conduct by the employer or any other person toward a worker in all aspects of work and employment, including with regard to access to employment and the various occupations, promotions and dismissal.**

Civil servants. For many years, the Committee has been emphasizing that section 27 of Ordinance No. 06-03 of 15 July 2006 issuing the General Conditions of Service of Civil Servants does not prohibit all of the grounds of discrimination listed in the Convention, as it provides only that "there must be no discrimination between civil servants on the basis of their opinions, sex, origin or any other personal or social circumstance". It nevertheless notes that, as indicated above, no legislative amendment has been introduced in this regard. **Recalling the importance of implementing a comprehensive system to protect civil servants from discrimination in employment and occupation, the Committee once again urges the Government to take the necessary steps to ensure that section 27 of Ordinance No. 06-03 of 15 July 2006 issuing the General Conditions of Service of Civil Servants explicitly prohibits all forms of direct or indirect discrimination, on at least all of the grounds listed in Article 1(1)(a) of the Convention and all other grounds specified pursuant to Article 1(1)(b)).**

Article 1(1)(a). Discrimination based on sex. Sexual harassment. The Committee notes that Act No. 15-19 of 30 December 2015 introduced into the Criminal Code section 341 bis, under which "any person who abuses the authority conferred by his or her function or occupation, by giving orders to others, making threats, imposing constraints or by exerting pressure in order to obtain favours of a sexual nature, is considered to have committed the offence of sexual harassment and shall be punished by imprisonment of one to three years and a fine of 100,000 to 300,000 Algerian dinars. Anyone who harasses another person by any act, or words of a sexual nature or insinuation is also guilty of the offence stated in the previous clause and punishable by the same penalty". The Committee recalls that criminal provisions are not completely adequate in discrimination cases because, inter alia, they do not always provide a remedy to the victim and are very unlikely to cover all forms of conduct that amount to sexual harassment. **The Committee requests the Government to provide information on: (i) the number, nature and outcome of complaints filed on the basis of section 341 bis of the Criminal Code, and the penalties imposed; and (ii) the preventive and awareness-raising measures implemented, in cooperation with the employers' and workers' organizations, to combat sexual harassment in employment and occupation.**

Articles 2 and 3. National policy. Equality of opportunity and treatment for men and women. For many years, the Committee has expressed serious concern regarding the low participation of women in the labour market and the persistence of strongly stereotyped attitudes with respect to the roles and responsibilities of women and men in society and in the family, both of which have a negative impact

on women's access to employment and training. The Committee notes that, according to the survey, "Activity, Employment and Unemployment" published by the Office for National Statistics (ONS) in May 2019, women's activity rate remains quite low (17.3 per cent) and is still significantly lower than that of men (66.8 per cent). The same survey indicates that significant disparities can be noted with regard to sex, with 77.9 per cent of women in the workforce concentrated in the following sectors: health and social work (45.1 per cent), manufacturing industry (18.9 per cent), and public administration (13.9 per cent). The Committee also notes that the unemployment rate for women in 2019 was 20.4 per cent, while that for men was 9.1 per cent. Furthermore, it notes with **concern** that, according to the World Bank's 2022 Algeria Economic Update, the number of women jobseekers who signed up with the National Employment Agency (ANEM) increased by 63 per cent in the first quarter of 2022. In this respect, the Committee emphasizes that, in its national report submitted to the universal periodic review (UPR) in September 2022, the Government states that measures taken to promote education and training for women have resulted in Algeria having one of the highest proportions of women graduates in the world at 48.5 per cent, thus ranking top in the 2018 United Nations Educational, Scientific and Cultural Organization (UNESCO) report. In this report, the Government also indicates that its action plan prioritizes measures to strengthen the economic integration of housewives and women living in rural areas (A/HRC/WG.6/41/DZA/1, paragraphs 106–107). **The Committee requests the Government to provide detailed information on the measures taken or envisaged to: (i) implement the intersectoral programme to support the integration of rural women and housewives into the economy, referred to in the Government's action plan for the implementation of the President's programme of September 2021; (ii) combat the very high rate of unemployment for women compared with men; (iii) effectively combat vertical and horizontal occupational gender segregation, as well as gender bias and gender stereotypes concerning the vocational aspirations and capabilities of women and their suitability for certain jobs; and (iv) allow women and men workers to achieve a better balance between work and family responsibilities.**

Article 5. Special protection measures. Work prohibited for women. For many years, the Committee has been drawing the Government's attention to the need to review the provisions prohibiting night work for women, as well as those concerning the assignment of women to work that is dangerous, insalubrious or harmful to their health. It nevertheless notes with **regret** that no progress has been made in this regard. The Committee recalls that there has been a shift over time from a purely protective approach concerning the employment of women to one based on promoting genuine equality between men and women and eliminating discriminatory law and practice. The protection measures taken for women can be broadly divided into two categories: those aimed at protecting maternity in the strict sense, which come within the scope of *Article 5*, and those aimed at protecting women generally because of their sex or gender, based on stereotypical perceptions about their capabilities and appropriate role in society. This second category is contrary to the Convention and constitutes obstacles to the recruitment and employment of women (see the [2012 General Survey on the fundamental Conventions](#), paragraph 839). The Committee further recalls that it considers that provisions relating to the protection of persons working under hazardous or difficult conditions should be aimed at protecting the health and safety of both men and women at work, while taking account of gender differences with regard to specific risks to their health. Restrictions on women's employment ("non-pregnant" and "non-nursing" women) are contrary to the principle of equality of opportunity and treatment for men and women, unless they are genuine protective measures put in place to protect their health. This protection must be determined on the basis of the results of a risk assessment showing that there are specific risks for women's health and/or safety. Therefore, such restrictions, if any, have to be justified and based on scientific evidence and, when in place, have to be periodically reviewed in the light of technological developments and scientific progress to determine whether they are still necessary. The Committee further recalls that it may be necessary to examine what other measures, such as improved health protection of both men and women, adequate transportation and security, as well as social services, are

necessary to ensure that women can access the types of employment concerned on an equal footing with men (see 2012 General Survey on the fundamental Conventions, paragraph 840). The Committee also emphasizes the need to adopt measures and to put in place facilities to enable workers with family responsibilities, particularly women who continue to bear the unequal burden of family responsibilities, to reconcile work and family responsibilities. ***The Committee therefore urges the Government to take the necessary steps to ensure that the special protection measures for women are limited to what is strictly necessary for maternity protection and do not constitute obstacles to the access of women to employment and to the various occupations. It also once again invites the Government to consider the possibility of taking support measures aimed at, inter alia, improving safety and health protection for men and women, and the availability of adequate transport services and social services, to enable women to access all types of employment on an equal footing with men. The Committee requests the Government to provide information on all provisions adopted in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Angola

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1976)

Previous comment: [direct request](#)

Articles 1 and 2(2)(a) of the Convention. Definition of remuneration. Equal remuneration for men and women for work of equal value. Scope of application. Legislation. The Committee notes that section 157 of the General Labour Act (Act No. 7/15) of 15 June 2015 provides for equal remuneration for men and women for the same work or for work of equal value. It observes, however, that: (1) several categories of workers, such as civil servants and casual workers, are excluded from the scope of application of the General Labour Act (section 2 of the Act); and (2) the definition of remuneration set out in section 155 of the General Labour Act excludes several components of remuneration (such as travel and accommodation allowances, family allowances and other social security benefits) which are covered by the definition of “remuneration” in *Article 1(a)* of the Convention. As regards civil servants, the Committee notes that section 9(c) of the Basic Civil Service Act No. 26/22 of 22 August 2022 provides that civil servants shall enjoy the right to receive “fair remuneration” but observes that this provision does not reflect the principle of the Convention. The Committee notes that, in January 2022, a new draft General Labour Act was examined by the National Commission for Social Dialogue, and, on 27 April 2022, the draft Act was approved by the Council of Ministers and forwarded to the General Assembly. ***The Committee hopes that the Government will take all necessary steps, in particular in the framework of the revision of the General Labour Act, to give full legislative expression to the principle of equal remuneration for men and women for work of equal value set out in the Convention, in particular by ensuring that all components of remuneration contained in Article 1(a) of the Convention are included in the definition of “remuneration” and all workers in the private sector are covered by the principle of the Convention. With respect to civil servants, it asks the Government to consider, in the framework of a future revision, including in the Basic Civil Service Act No. 26/22 provisions reflecting the principle of equal remuneration for men and women for work of equal value. The Committee asks the Government to provide information on: (i) any progress made in that regard; (ii) any proactive measures taken to raise awareness of the meaning and scope of application of the principle of equal remuneration for work of equal value among workers and employers and their organizations, as well as among law enforcement officials; and (iii) the number, nature and outcome of any cases of pay inequality between men and women dealt with by the labour inspectors, the courts or any other competent authority.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1976)

Previous comments: [observation](#) and [direct request](#)

Articles 1 and 2 of the Convention. Protection against discrimination in employment and occupation. Legislation. The Committee notes that section 4 of the General Labour Act (Act No. 7/15) of 15 June 2015 provides for equality of opportunity and non-discrimination for all citizens based on race, colour, sex, ethnic origin, marital status, social origin or status, religious reasons, political opinion, trade union membership or language. It notes the Government's indication, in its report, that a revision process of the General Labour Act has been initiated and would address the issues previously raised by the Committee regarding: (1) the definition of discrimination in order to encompass both direct and indirect discrimination in all aspects of employment and occupation; (2) the prohibited grounds of discrimination enumerated in *Article 1(1)(a)* of the Convention, including national extraction; (3) the prohibition of sexual harassment; (4) the restrictions on women's access to work; and (5) the scope of the measures applicable to workers with family responsibilities. In that regard, the Committee notes that, in January 2022, the draft General Labour Act was examined by the National Commission for Social Dialogue. On 27 April 2022, the draft Act was approved by the Council of Ministers and forwarded to the General Assembly. **Recalling the importance of having a clear and comprehensive legislative framework in order to effectively address discrimination in employment and occupation and ensure the effective implementation of the Convention, the Committee trusts that the Government will take every necessary step, in particular in the framework of the revision of the General Labour Act, to give full legislative expression to the provisions of the Convention regarding the above-mentioned matters. It asks the Government to provide information on the steps taken to that end and their outcomes.**

Article 1(1)(a). Discrimination based on sex. Sexual harassment. The Committee welcomes the Government's indication, in its report, that section 301 of the draft revised General Labour Act would prohibit sexual harassment. It notes that, in their concluding observations, the United Nations (UN) Committee on the Elimination of Discrimination against Women (CEDAW) and the UN Human Rights Committee expressed specific concerns at: (1) the failure to comprehensively prohibit all forms of gender-based violence against women and girls in the public and private spheres; and (2) the under-reporting of gender-based violence against women and girls owing to the social legitimization of violence, a culture of silence and impunity, and the stigmatization of victims by health professionals and law enforcement officers, legal illiteracy and a lack of trust in law enforcement authorities (CEDAW/C/AGO/CO/7, 14 March 2019, paragraph 25; and CCPR/C/AGO/CO/2, 8 May 2019, paragraph 17). **The Committee asks the Government to take steps to: (i) include in its national legislation a clear definition and prohibition of both quid pro quo and hostile work environment sexual harassment in employment and occupation; and (ii) ensure that appropriate preventive and remedial measures and procedures are in place. It also requests the Government to provide information on any practical measures taken to prevent and address sexual harassment in employment and occupation.**

Articles 1(1)(a) and 5. Restrictions on women's access to work. The Committee notes that a list of jobs prohibited for women was adopted by Executive Decree No. 172/10 of 14 December 2010, pursuant to section 243 of the General Labour Act. It notes the Government's general indication that several provisions of the draft General Labour Act refer to restrictions on women's access to work but observes that the Government did not provide information on the content of such provisions. The Committee recalls that special measures for the protection of women should be limited to maternity protection in the strict sense, and that provisions for the protection of persons working under hazardous or difficult conditions should be aimed at protecting the health and safety of both men and women at work, while taking account of gender differences with regard to specific risks to their health (see [2012 General Survey on the fundamental Conventions](#), paragraphs 839 and 840). **The Committee asks the**

Government to take measures, in particular in the framework of the revision of the General Labour Act, to ensure that existing restrictions on women's access to work are removed so as to allow women's access to employment on an equal footing with men, and that any restriction regarding the access of women to certain jobs is strictly limited to maternity protection in the broad sense.

Article 1(1)(b). Real or perceived HIV status. The Committee notes that sections 5 and 7 of Act No. 8/04 of 1 November 2004 on HIV and AIDS prohibit discrimination based on workers' health status in relation to HIV/AIDS. It notes that, in August 2021, the Government initiated the revision of Act No. 8/04 with a view to "responding to current complaints about discrimination", especially in the workplace, with domestic workers often being fired as a result of their HIV positive status. In that regard, the Committee notes that, in its 2019 concluding observations, the UN Human Rights Committee expressed concern at reports that persons living with HIV/AIDS face stigmatization and de facto discrimination (CCPR/C/AGO/CO/2, paragraph 13). **The Committee asks the Government to provide information on: (i) the current status of the revision process of Act No. 8/04; (ii) any measures taken in law and in practice to prevent and address discrimination based on real or perceived HIV status in employment and education, in particular against domestic workers; and (iii) any cases of discrimination based on real or perceived HIV status dealt with by the competent authorities, including sanctions imposed and remedies granted.**

Article 2. Equality of opportunity and treatment for men and women. The Committee notes the Government's indication that several programmes have been implemented in order to promote equality of opportunity and treatment for men and women, and enhance women's participation in professional training courses, including the Women's Vocational Training Programme. Since 2018, 2,360 women have benefited from such training. The Committee notes that, according to ILOSTAT, the labour force participation rate of women was estimated at 74 per cent in 2021. It further notes, from the statistical information provided by the Government, that the number of women placed in employment decreased, with women representing, in 2021, only 21 per cent of workers placed in employment compared with 38 per cent in 2020. In that regard, the Committee notes the Government's statement that, despite its efforts, the existing gender gap in access to employment remains a key issue. The Committee notes that in its concluding observations, the CEDAW remained concerned about: (1) the disproportionately high levels of illiteracy among women, in particular in rural areas, and the difficulties faced by rural women in obtaining identity documents, which restricts their access to employment opportunities and bank loans; (2) the inadequate and decreasing budget allocations to the education sector, forcing girls to walk long distances to school and depriving them of adequate sanitary facilities; (3) the under-representation of girls and women in traditionally male-dominated areas of education, including technical and vocational education; and (4) the continuing horizontal and vertical occupational gender segregation and the concentration of women in the informal labour market (CEDAW/C/AGO/CO/7, paragraphs 33, 35 and 37). **Taking into consideration the persistence of vertical and horizontal occupational gender segregation, the Committee encourages the Government to strengthen its efforts to implement proactive measures to promote equality of opportunity and treatment for men and women in employment and occupation. It asks the Government to provide: (i) information on any measures implemented to enhance girls' and women's access to education, occupational training and employment opportunities in the formal economy, in particular for rural women, and their results; and (ii) statistical information on the participation of men and women in education, training, employment and occupation, if possible disaggregated by occupational categories, both in the public and private sectors.**

Workers with family responsibilities. The Committee notes that: (1) section 244 of the General Labour Act provides that employers must facilitate part-time work for "women with family responsibilities"; and (2) sections 247 and 248 provide for maternity leave while there is no provision for paternity leave. In that regard, it welcomes the Government's indication that section 214 of the draft revised General Labour Act would provide for paternity leave. **Recalling that, in order to achieve the**

objective of equality set out in the Convention, measures to assist workers with family responsibilities should be available to both men and women on an equal footing, the Committee asks the Government to provide information on the measures taken, in particular in the framework of the revision of the General Labour Act, to enable both men and women to reconcile work and family responsibilities.

Equality of opportunity and treatment irrespective of race, colour or national extraction. Indigenous peoples. The Committee notes that, in its 2019 concluding observations, the UN Human Rights Committee expressed concern at reports that individuals belonging to certain groups, in particular indigenous peoples, face stigmatization and de facto discrimination in their access to land, natural resources and education. Pastoralists in the south-west have faced exclusion from grazing land and expropriation of land (CCPR/C/AGO/CO/2, paragraphs 13 and 49). **The Committee asks the Government to provide information on the steps taken or envisaged to ensure equality of opportunity and treatment of indigenous peoples in employment and occupation, including any steps directed at protecting their right to engage in their traditional occupations and livelihoods without discrimination.**

Monitoring and enforcement. The Committee notes that the new Criminal Code (Act No. 38/20 of 11 November 2020) criminalizes discrimination in employment based on race, colour, ethnic origin, birthplace, sex, sexual orientation, illness or disability, creed or religion, political or ideological opinion, social origin or status or other forms of discrimination, and establishes penalties of two years of imprisonment or a fine (section 212). It also notes the Government's indication that no case of discrimination in employment or occupation has been lodged. The Committee recalls that criminal provisions are not completely adequate in discrimination cases because, inter alia, they do not always provide a remedy to the victim and are very unlikely to cover all forms of conduct that amount to sexual harassment. The Committee also recalls that where no cases or complaints, or very few, are being lodged, this is likely to indicate a lack of an appropriate legal framework, lack of awareness of rights, lack of confidence in or absence of practical access to procedures or fear of reprisals. The lack of complaints or cases could also indicate that the system of recording violations is insufficiently developed (see 2012 General Survey on the fundamental Conventions, paragraph 870). In that regard, the Committee notes that in their 2019 concluding observations, the CEDAW and the UN Human Rights Council remained concerned about: (1) the limited availability of courts and out-of-court dispute settlement centres, in particular in rural areas; (2) the lack of independence of the judiciary and the insufficient number of trained judges, prosecutors and lawyers, which may prevent many citizens from accessing justice; and (3) the lack of capacity-building programmes for actors involved in traditional conflict resolution mechanisms and the limited oversight over their functions, which heightens the risk of such institutions perpetuating discriminatory gender stereotypes (CEDAW/C/AGO/CO/7, paragraph 13 and CCPR/C/AGO/CO/2, paragraph 37). **The Committee therefore asks the Government to provide information on: (i) the number and outcomes of inspections carried out by the General Labour Inspectorate regarding discrimination in employment and occupation; (ii) the number and nature of cases concerning discrimination in all aspects of employment and occupation brought before the courts, the penalties applied and remedies granted; and (iii) any measures taken to raise public awareness of the provisions of the Convention and the legislation, procedures and remedies available, and to enhance the capacity of the competent authorities, including judges, labour inspectors and other public officials, to identify and address cases of discrimination.**

Antigua and Barbuda

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2003)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1(a) and (b) of the Convention. Work of equal value. The Committee previously noted that section E8(1) of the Labour Code of 1975 did not give full legislative expression to the principle of the

Convention. Noting that the National Labour Board had reviewed the Labour Code and that a report had been submitted to the relevant authority for action, it requested the Government to report on the progress made in this regard. In its report, the Government indicates that it is envisaged that the revised text of the Labour Code will set out the principle of equal remuneration for men and women for work of equal value, which should not only provide for equal remuneration for men and women working in the same occupations, but also for equal remuneration for work carried out by men and women that is different in nature but of equal value. Upon revision by the National Labour Board, the upgraded text of the Labour Code will be subject to amendment after the process of public consultation is completed. The Government adds that the National Labour Board will ensure that the Labour Code does not contravene this Convention. ***The Committee requests the Government to provide information on the progress made towards the amendment of the Labour Code to give full legislative expression to the principle of the Convention and, in the meantime, on any measures taken or agreements and policies adopted providing for equal remuneration for men and women for work of equal value.***

Remuneration. In its previous comments, the Committee noted the use and definitions of the terms “wages”, “gross wages”, “remuneration” and “conditions of work” in sections A5, C3, C4(1) and E8(1) of the Labour Code. It noted that, while the definition of “gross wages” appeared to be in accordance with the definition of remuneration set out in *Article 1(a)* of the Convention, it remained unclear whether section C4(1) prohibiting sex discrimination with respect to wages covered the gross wage. It noted the Government’s indication that the terms “wages”, “gross wages” and “remuneration” were used interchangeably in practice, but emphasized that these various terms were often understood to have distinct meanings, thus potentially giving rise to confusion. Noting the ongoing review of the Labour Code, the Committee requested the Government to ensure that the revised text would harmonize the provisions of the Labour Code relevant to wages and remuneration, and include a clear definition of “remuneration” in accordance with *Article 1(a)* of the Convention. The Committee notes the Government’s indication that the National Labour Board will consider a definition for the term “remuneration” (as opposed to the interchangeable use of the terms “wages” and “gross wages”), which will cover not only the ordinary, basic or minimum wage or salary, but also any additional emoluments payable directly or indirectly, whether in cash or kind, by the employer, in accordance with *Article 1(a)* of the Convention. This will ensure that there is no potential for confusion. ***The Committee requests the Government to provide information on the progress made in the amendment of the Labour Code in order to include a clear definition of remuneration in accordance with Article 1(a) of the Convention.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1983)

The Committee notes that the Government’s report has not been received. It is therefore bound to repeat its previous comments.

Article 1(1)(a) of the Convention. Grounds of discrimination – National extraction and social origin. For a number of years, the Committee has been noting the absence of an explicit prohibition of discrimination on the basis of national extraction and social origin in the national Constitution and the Labour Code. The Committee has been asking the Government to ensure that workers are protected in law and in practice against direct and indirect discrimination on the basis of national extraction and social origin, in all aspects of employment and occupation, and to monitor emerging forms of discrimination that may result in or lead to discrimination in employment and occupation on the basis of these grounds, and to report in detail on the progress made. The Government indicates in its report that the process of revising the Labour Code is still ongoing and the National Labour Board is currently considering provisions aimed at defining and prohibiting direct and indirect discrimination, as well as including all grounds of discrimination, namely race, colour, sex, religion, political opinion, national extraction and social origin. The Government adds that, once finalized, these proposals will be made available for public consultation. ***The Committee firmly hopes that the amendments to the Labour Code will be adopted in the near future and will include specific provisions ensuring and promoting the protection of workers against direct and indirect discrimination in all aspects***

of employment and occupation, and with respect to all the grounds of discrimination set out in Article 1(1)(a) of the Convention.

Article 2. General observation of 2018. Regarding the above issues and more generally, the Committee would like to draw the Government's attention to its general observation on discrimination based on race, colour and national extraction adopted in 2018. In the general observation, the Committee notes with concern that discriminatory attitudes and stereotypes based on the race, colour or national extraction of men and women workers continue to hinder their participation in education, vocational training programmes and access to a wider range of employment opportunities, resulting in persisting occupational segregation and differences in remuneration for work of equal value. Furthermore, the Committee considers that it is necessary to adopt a comprehensive and coordinated approach to tackling the obstacles and barriers faced by persons in employment and occupation because of their race, colour or national extraction, and to promote equality of opportunity and treatment for all. Such an approach should include the adoption of interlocking measures aimed at addressing gaps in education, training and skills, providing unbiased vocational guidance, recognizing and validating the qualifications obtained abroad, and valuing and recognizing traditional knowledge and skills that may be relevant both to accessing and advancing in employment and to engaging in an occupation. The Committee also recalls that, in order to be effective, these measures must include concrete steps, such as laws, policies, programmes, mechanisms and participatory processes, and remedies designed to address prejudices and stereotypes and to promote mutual understanding and tolerance among all sections of the population. ***The Committee draws the Government's attention to its general observation of 2018 and requests the Government to provide information in response to the questions raised in that observation.***

Equality for men and women. Access to education, vocational training and employment. In its previous comments, the Committee urged the Government to take concrete steps to collect, analyse and provide statistical information, disaggregated by sex, on the participation of men and women in education and the various vocational training courses offered, as well as statistics on the number of men and women who have filled vacancies following such training, including for jobs traditionally held by the other sex. The Committee also urged the Government to provide detailed information on recent initiatives to promote women's participation in courses and jobs traditionally held by men, including up-to-date information on the courses offered by the Gender Affairs Department and the Ministry of Education, as well as the Institute of Continuing Education. The Committee notes the Government's indication that a comparative analysis was done on the participation of men and women in various vocational training courses in institutions such as the Ministry of Education, the Antigua and Barbuda Institute of Continuing Education (ABICE), the Antigua State College (ASC), the Directorate of Gender Affairs, the Antigua and Barbuda Hospitality Training Institute (ABHTI), the Department of Youth Affairs (DYA) and the Gilbert Agricultural Rural Development (GARD) Centre. The Government states that statistics indicate that there is still a striking disparity in the participation of women in professions traditionally occupied by men. However, women are slowly participating to a greater extent in technical and skilled occupations. It is envisaged that the institutions mentioned above will endeavour to engage in strategic planning that will encourage more women to access training so as to enter technical professions which are traditionally occupied by male workers. Currently, most institutions are actively involved in open-day activities geared towards attracting persons to the programmes provided and in spending time in counselling persons to access the training that best suits them. However, the Government states that there is little initiative specifically designed to encourage women to participate in areas traditionally dominated by men. The Committee notes that in its 2019 concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) recommended adopting effective measures to combat horizontal and vertical occupational segregation in both the public and private sectors, including through professional training and incentives for women to work in traditionally male-dominated fields of employment (CEDAW/C/ATG/CO/4-7, 14 March 2019, paragraphs 36(a) and 37(a)). ***The Committee asks the Government to provide statistics, disaggregated by sex, on the participation of men and women in education at all stages and the various vocational training courses offered, as well as on the number of men and women who have filled vacancies following such training, including for jobs traditionally held by the other sex. The Committee hopes that the Government will be in a position to provide information in its next report on the manner in which it promotes women's participation in courses and jobs traditionally held by men.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Bahrain

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2000)

Previous comment

The Committee notes the observations of the General Federation of Bahrain Trade Unions (GFBTU) received by the Office on 24 September 2020 and 31 August 2022.

Article 1 of the Convention. Discrimination on the basis of political opinion. The Committee notes that the Government affirms that all remaining individual dismissal cases related to the 2011 events have been resolved. The Government refers to its communication to the ILO Director-General dated 10 June 2019 in which it explains that, out of the 55 outstanding cases, 44 individuals were reinstated in their jobs in the private sector and 11 workers accepted financial compensation in lieu of reinstatement in their previous jobs, which amounted to US\$1.417 million. The Government further indicates that the Ministry of Labour and Social Development (MLSD) received a communication dated 3 June 2019 from the GFBTU indicating its acceptance of this final settlement. In light of the above, and the fact that the MLSD has not registered any complaints from workers who were reinstated, the Government considers that the cases of the workers dismissed in the wake of the 2011 events and mentioned in the Tripartite Agreements of 2011 and 2014 are closed. The Committee notes however that, in its observations, the GFBTU states that the dismissed workers who were finally reinstated did not receive financial compensation for their unfair dismissal, except in the case of workers from the University of Bahrain and the Bahrain Chamber of Commerce and Industry (BCCI) as already indicated in the Committee's previous observation. The Committee recalls that, under the Supplementary Tripartite Agreement of 2014, the Government had agreed with the social partners to refer to a tripartite committee the cases which relate to financial claims or compensation that have not been settled and, in the absence of consensus, to refer them to the judiciary. According to the GFBTU no such committee has been set up so far. The Government points out that, despite this alleged failure to set up a tripartite committee to monitor discrimination in employment and occupation in the country, the MLSD and the social partners have been able to settle many pending issues and restates that all avenues for collaboration are open to the GFBTU to discuss its views on this issue and any other issues through the joint bilateral committee. The Committee notes that according to the GFBTU, while some dismissed workers received financial compensation, others have not yet received it. ***In light of the above, the Committee asks the Government: (i) to clarify whether the tripartite committee referred to in the Supplementary Tripartite Agreement of 2014 has been established; and (ii) to provide information on the number of the outstanding cases mentioned by the GFBTU and the steps taken to resolve them.***

Education International. The Committee notes with ***regret*** the absence of information on the outstanding cases of teachers dismissed in the wake of the 2011 events and not yet reinstated, in particular the case of the 15 teachers who were members of the now dissolved Bahrain Teachers Association and who are allegedly still unable to obtain employment in private schools, ten years after the events, due to a lack of clearance from the Ministry of Education. ***The Committee requests the Government to take the necessary measures to examine, without delay, the case of the 15 dismissed teachers and to ensure that if appropriate they receive compensation in respect of their dismissals and that they are cleared to return to their jobs in the education sector, if they still wish to do so.***

Act No. 58/2006 on the protection of society from acts of terrorism. The Committee takes note of the Government's statement that the aforementioned law was formulated to protect society from terrorism, extremism and other phenomena which destabilize social peace and safety and therefore it does not

fall under the umbrella of the application of the Convention or the issues which are of concern to the ILO. **While recalling what is stated in its 2012 General Survey on the fundamental Conventions (paragraphs 805, 832 and 833), the Committee reiterates its request to the Government: (i) to ensure that the application of Act No. 58/2006 does not in practice infringe the right of workers to be protected from discrimination on grounds of political opinion, as required by the Convention; and (ii) to provide information on the impact of the application of the Act in the fields of employment and occupation, as well as on any cases brought before the courts against any worker alleged to be “abusing the social media”, indicating the charges brought and the outcome.**

Article 1(1)(a) and (3). Grounds of discrimination and aspects of employment and occupation. Private and public sectors. Migrant workers, including domestic workers. The Committee notes the introduction by Legislative Decree No. 59 of 2018 of an addition to section 2 – section 2 bis – to Labour Code No. 36 of 2012 which states that: “Discrimination on the grounds of sex, origin, language, religion or belief against workers who are governed by the provisions of this law is hereby prohibited.” The Committee recalls that section 2 of the Labour Code excludes domestic workers and persons regarded as such from the scope of the protection of the Labour Code, except for certain provisions. Domestic workers are covered by the “Tripartite Domestic Workers contract” which regulates the relationship between the recruitment agency, the employer (the household) and the migrant domestic worker, the aim of which is to prevent the exploitation of domestic workers and it is expected to help guarantee the rights of migrant domestic workers. The Committee notes that new section 2 bis has been added to the list of the provisions of the Labour Code that apply to domestic workers and persons regarded as such (such as for example, sections 6, 19, 20, 21, 37, 38, 40, 48, 49, 58, 116, 183, 185 and Parts Twelve and Thirteen). The Government indicates that, following the adoption of this amendment, it has launched an information campaign through messages disseminated via the MLS D website, social media networks related to the Ministry, several awareness-raising lectures at the Ministry and in workplaces, with the embassies of labour-exporting countries and a number of civil society institutions and other bodies. It has also set up a hotline which can be contacted to request clarification and replies to any query.

The Committee welcomes the introduction of this formal general prohibition of discrimination in the Labour Code and its extension to domestic workers and persons regarded as such. The Committee notes however that, despite its previous observations, this amendment is still lacking as: (1) the new section 2 bis of the Labour Code does not mention *all* of the grounds of discrimination formally listed in the Convention; (2) the Labour Code still does not provide a *comprehensive* definition of discrimination, as well as a prohibition of *direct* and *indirect* discrimination, with respect to *all* aspects of employment (in other words, access to vocational training, to employment and to particular occupations, and terms and conditions of employment). **Once again, the Committee asks the Government to amend both the Labour Code and the Civil Service Instructions No. 16/2016 to provide for: (i) a comprehensive definition of discrimination which should include direct and indirect discrimination and cover the seven grounds listed in the Convention; and (ii) protection against discrimination in all forms of employment and occupation.**

Discrimination based on sex. Sexual harassment. The Committee notes the Government’s indication that Decree No. 59 of 2018 amending Labour Law No. 36 of 2012 formally prohibits sexual harassment in the workplace, by adding under Chapter 17 on “Sanctions” a section 192 bis which provides that: “A sentence of imprisonment of a maximum of one year or a maximum fine of 100 dinars [approximately US\$265] shall be imposed on any worker who, in the course of, or for reasons of employment, sexually harasses a co-worker by a gesture, verbal or physical conduct, or by any other means. A sentence of imprisonment for a minimum term of six months or a minimum fine of 500 dinars [US\$1,326] and a maximum fine of 1,000 dinars [US\$2,653] shall be imposed whenever such a crime is committed by the employer or by his representative”. In that regard, the Committee notes that although section 192 bis provides for sanctions against sexual harassment, sexual harassment is not formally defined in the labour legislation. The Penal Code prescribes the sanctions available in the case of sexual harassment

but does not include a clear and comprehensive definition of sexual harassment and only addresses cases where a worker is subject to sexual harassment from a co-worker, not when the perpetrator is a representative of the employer or a third party. The Committee takes note of the Government's statements that: (1) issues related to exposing a worker to discrimination by another colleague at work cannot be included in the Labour Law which only governs the relationship between employers, or their representatives, and their workers; (2) a worker victim of discrimination by a co-worker or a client should use other laws and regulations, provided the allegations are considered to be a crime or a misdemeanour towards individuals; and (3) this worker can submit his/her complaint before administrative bodies (MLSD, Civil Service Diwan, the General Secretariat for Grievances, the National Institution for Human Rights) or the courts. The Committee notes that under the new amendment, discrimination (and implicitly sexual harassment) is criminalized. It also notes that, in response to its previous statement – that a lack of complaints is not always an indicator of an absence of discrimination in practice – the Government affirms that, even if sexual harassment was addressed by the civil or labour law, in addition to the Penal Code, this does not mean that there would be cases of discrimination registered by the competent authorities, in view of: “(1) the legal and legislative progress in the Kingdom of Bahrain, and (2) the advanced cultural and educational levels of the labour force to exercise civil and political rights”. The Committee notes the Government's statement that, although awareness-raising and guidance in this area is a joint responsibility of relevant government bodies, social partners and civil society institutions, the MLSD is considering launching an information campaign to raise awareness. **However, the Committee once again strongly urges the Government to take steps to adopt a clear and comprehensive definition and prohibition of sexual harassment. The Committee also asks the Government to provide detailed information on the remedies available to a victim in the event of a proven case of sexual harassment lodged with the various judicial, quasi-judicial and administrative bodies, and on any developments concerning the future awareness-raising campaign against sexual harassment in the world of work. The Committee reminds the Government again that an absence of complaints does not mean that harassment is not occurring.**

Article 2. Equality of opportunity and treatment for men and women. Legislation. The Committee notes with **interest** that Legislative Decree No. 16 of 2021, which amends several sections of the Labour Code, has added a second paragraph to section 39 of the Labour Code which prohibits discrimination in wages between male and female workers for work of equal *value*.

As regards the presence of Bahraini women in the economic, social and political spheres, the Committee takes notes of the information communicated by the Government, such as, for example, their presence in the legislative authorities (the current Chairperson of the Council of Representatives is a woman, as well as a number of chairs of parliamentary committees), the fact that they are heading important ministries (Minister of Health, Minister of Housing) and that a number of ambassadors are women, and so on. According to the Government, women currently comprise 40 per cent of the total workforce in the public and private sectors which is high compared with labour markets in the Middle East and North Africa region. The Supreme Council for Women – which the Government says plays an important role in the promotion and empowerment of women in society and addresses the various forms of discrimination against them – indicates that the percentage of women in administrative posts has reached 46 per cent and that they are progressively assuming leadership positions on administrative boards and are playing an important role as entrepreneurs and in the ownership of small and medium-sized enterprises. In the last four years, the MLSD has inaugurated recruitment programmes for women to encourage their employment via part-time work and remote working, which have contributed to the recruitment of some 7,000 Bahraini women. As regards training and vocational programmes, the statistics indicate that the percentage of women who benefited from training is quite high: 49 per cent in 2019, 29 per cent in 2020 (reflecting the impact of COVID-19 pandemic) and 60 per cent in 2021. Furthermore, the Government draws the Committee's attention to the National Plan for the Advancement of the Bahraini Women (2013–2022) which encompasses several pillars aimed at

enhancing women's participation in the labour market, such as focusing on education and training, economic empowerment and lifelong learning. In that regard, the Committee welcomes the information showing that, in the field of education (enrolment in secondary education and at university), the country has nearly closed the gender gap, to 98 per cent (compared with a global average of 95 per cent). As for proactive measures taken or envisaged to address inequality based on societal and traditional reasons, the Committee notes the Government's statement that Bahraini society is an open society which accepts the presence of women in all posts without exception, in addition to supporting them in their education and in career promotion. ***The Committee asks the Government to provide information on the results achieved following the implementation of the 2013–2022 National Plan, as well as the impact of the above-mentioned measures and initiatives adopted.***

Flexi work permit (Flexi permit). The Government recalls that the Flexi permit gives an opportunity to migrant workers in an irregular situation from specific categories to stay and work legally in the country without being tied to an employer (subject to annual fees). It allows them to benefit from health services, as well as from insurance against occupational injuries and to resort to the competent authorities to submit complaints, in addition to the possibility of being under contract with several employers or one employer according to a worker's desire throughout the period of his/her residence. The Government stresses the efforts made during the COVID-19 pandemic by, for example, not imposing the repatriation of migrant workers during the pandemic and freezing all fees related to the renewal of work permits.

Freedom to transfer to another employer. The Committee notes that, by virtue of Law No. 19 Regulating the Labour Market (2006), a migrant worker has the right to transfer to another employer without the approval of the current employer, *after* 12 months of employment with the current employer, while taking into account the specific period of 90 days' notice required. The Government explains that, considering the costs incurred by the employer in recruiting a worker from abroad, this 12-month period during which a worker is legally prohibited from transferring to another employer is reasonable. However, this condition does not apply where a worker has proved that he/she was exposed to exploitation or abuse by an employer such as the non-payment of wages, reduced wages, or a violation of a worker's legitimate rights in accordance with the Labour Law. In such a case, workers are authorized to transfer to another employer immediately without the approval of their current employer. During the years 2019–21, more than 186,000 workers were transferred with or without the approval of the employer.

The wage protection system (WPS). The Committee recalls that the WPS is a transparent means of securing the timely payment of employee salaries and regulating employer non-compliance, whereby employers are obliged to pay salaries in local currency at least once a month into a locally certified bank account. In that regard, the Government indicates that Ministerial Order No. 22 of 2021 sets down a gradual timeline for the full introduction of this system, starting with enterprises employing more than 500 workers and then to small and medium-sized enterprises. The Committee notes that the legislation also provides that an employer who fails repeatedly to meet their obligation in this regard may in future be denied a work permit for a migrant worker. The Committee takes note of the active steps taken by the Government to ensure better protection for migrant workers in general and in particular during the COVID-19 pandemic.

Noting that the Flexi permit system is only open to restrictive categories of migrant workers and is relatively costly, the Committee encourages the Government to consider reducing the fees and relaxing the eligibility criteria to enable a greater number of migrants to apply for a Flexi permit. It also asks the Government to provide statistical information on the number of migrant workers who have transferred to new employers before the expiry of the contract. The Committee also asks the Government to provide information on the impact of the Tripartite Domestic Workers contract on reducing migrant workers' vulnerability to exploitation.

Article 5. Special measures of protection for women. The Committee notes with **satisfaction** the repeal of Ministerial Order No. 32 of 2013 which prohibited women's employment in specific sectors and occupations in addition to that of Ministerial Order No. 16 of 2013 regarding the occupations in which, and the circumstances under which, the employment of women at night was prohibited. Decrees Nos 50 and 51 of 2021, on night work and occupations, respectively, have lifted restrictions on women's right to work at night. The Government also indicates that, in addition, several ministerial orders were adopted repealing all previous exceptions relating to women's employment at night and the prohibition of their employment in some occupations and roles, in undertakings prescribed by the Labour Law. The Government states that, as a consequence, women's employment has become possible in all economic sectors and in different occupations – without exception – in accordance with the principle enshrined in the Convention. While taking due note of this information, the Committee notes that Decrees Nos 50 and 51 of 2021 do not provide for any protection to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of the child. ***The Committee therefore asks the Government to indicate the measures taken to protect the health of pregnant or breastfeeding workers, as well as the health of their child, in these circumstances.***

The Committee is raising other matters in a request addressed directly to the Government.

Bangladesh

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1998)

Previous comment

Articles 1–4 of the Convention. Assessing and addressing the gender wage gap and its underlying causes. The Committee observes: (1) the wide gender pay gap that persists in both the public and private sectors and the formal and informal economy; and (2) the occupational segregation of women in elementary occupations and the increasing number of women who are working in the informal economy. The Committee notes the Government's indication that: (1) disaggregated statistical data on the earnings of men and women in the informal economy is not recorded by the Department of Inspection for Factories and Establishments (DIFE); and (2) according to the 2017 Labour Force Survey, 85 per cent of employed persons are in informal employment. The Committee further notes that 59.7 per cent of women and 32.2 per cent of men work in agriculture, forestry and fishing, and that the wage gap in agriculture was 31.51 per cent in 2018–19 (40.52 in 2010–11) (see Policy Brief of the Bangladesh Bureau of Statistics of 2 May 2021). The Committee also notes the Government's continued repetition that: (1) there is no gender pay gap in the formal sector both in public and private industrial and commercial enterprises; and (2) section 345 of the Labour Act, 2006, provides for equal wages for work of equal value. The Government adds that it is concerned about promoting women's access to the labour market and that several ministries are providing training for women on different skills. ***In this context, the Committee reiterates its request to the Government to adopt specific measures to assess and reduce the existing gender wage gap in both the formal and informal economy. The Committee also asks the Government to provide information on:***

- (i) ***the steps taken to address occupational segregation, including by promoting women's access to the labour market and to jobs with career prospects and higher pay, and their results; and***
- (ii) ***the earnings of men and women, disaggregated by economic activity and occupation, in both the public and private sectors, as well as in the informal economy.***

Article 1(a). Definition of remuneration. Legislation. The Committee notes that the Government has formed a Tripartite Labour Law Review Committee, which has started its work. It notes however with **concern** the Government's repeated statement that it considers that the definition of "wages" in section 2(45) of the Labour Act to be in line with the Convention. The Committee recalls that this definition excludes particular aspects of remuneration such as "the value of any house accommodation, light, water" or "any travelling allowance". In this regard, the Committee again draws the Government's attention to *Article 1(a)* of the Convention which sets out a broad definition of remuneration, including not only "the ordinary, basic or minimum wage or salary" but also "any additional emoluments whatsoever ... whether in cash or in kind". The use of "any additional emoluments whatsoever" requires that all elements that a worker may receive for his or her work, including accommodation and travel allowances, are taken into account in the comparison of remuneration. Such additional components are often of considerable value and need to be included in the calculation, otherwise much of what can be given a monetary value arising out of the job would not be captured (see the [2012 General Survey on the fundamental Conventions](#), paragraphs 686–687 and 690–691). ***Noting the Government's indication that a Tripartite Labour Law Review Committee was formed and started its work, the Committee reiterates its request to the Government to take appropriate steps so that the definition of "wages" provided under section 2(45) of the Labour Act is modified to encompass all the elements of remuneration, as defined in Article 1(a) of the Convention so as to ensure that the principle of equal remuneration for men and women for work of equal value can be fully applied.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1972)

Previous comment

The Committee notes the observations of the Trade Union Committee of International Labour Standards (TU-ILS Committee) of Bangladesh, received on 1 September 2022.

Article 1 of the Convention. Protection against discrimination. Definition and prohibition of discrimination in employment and occupation. Legislation. While noting the current humanitarian situation in the country, the Committee is bound to note that for a number of years, it has been drawing the Government's attention to the absence of legislative provisions providing protection against discrimination based on all of the grounds listed in *Article 1(1)(a)* of the Convention, with respect to all aspects of employment and occupation as defined in *Article 1(3)* of the Convention and covering all workers. The Committee notes the TU-ILS Committee's statement that there is discrimination in employment both in the private and public sectors. While noting the Government's repeated statement that the Constitution provides protection against discrimination in employment and occupation, the Committee recalls that the main non-discrimination provision of the Constitution (article 28) provides for non-discrimination by the State but does not address the situation of the private sector and does not prohibit all of the grounds of discrimination enumerated in *Article 1(1)(a)*. The Committee has repeatedly drawn the Government's attention to the fact that: (1) the constitutional provisions providing for equality of opportunity and treatment, although important, are generally not sufficient to address specific cases of discrimination in employment and occupation; and (2) a more detailed legislative framework addressing specifically discrimination in employment and occupation is required. Such a framework could include the following elements: coverage of all workers; provision of a clear definition of direct and indirect discrimination, as well as sexual harassment; the prohibition of discrimination at all stages of the employment process; the explicit assignment of supervisory responsibilities to competent national authorities; the establishment of accessible dispute resolution procedures; the establishment of dissuasive sanctions and appropriate remedies; the shifting or reversing of the burden

of proof; the provision of protection from retaliation; affirmative action measures; and provision for the adoption and implementation of equality policies or plans at the workplace, as well as the collection of relevant data at different levels (see [2012 General Survey on the fundamental Conventions](#), paragraphs 850–855). In this regard, the Committee notes that an Anti-Discrimination Bill, 2022, was submitted to Parliament in April 2022. ***Taking into account the difficult situation in the country and recalling that the absence of a clear and comprehensive legislative framework may prevent workers from availing themselves of their right to equal opportunity and treatment and non-discrimination, the Committee asks the Government to take steps to ensure that, in the framework of the current labour law reform, the Labour Act of 2006 is amended or the Anti-Discrimination Bill, 2022, is adopted with a view to: (i) prohibiting direct and indirect discrimination based on at least all of the grounds enumerated in Article 1(1)(a) of the Convention, with respect to all stages of employment and occupation, including recruitment; and (ii) covering all categories of workers, in both the formal and informal economy, including domestic workers. The Committee asks the Government to provide information on any progress made in this regard, as well as a copy of any new legislation, including the 2022 Amendment to the Labour Rules 2015. It further asks the Government to ensure the protection of men and women workers against discrimination in employment and occupation in practice, and particularly the categories of workers excluded from the scope of the Labour Act.***

Article 1(1)(a). Discrimination based on sex. Sexual harassment. The Committee notes the Government's statement that section 332 of the Labour Act prohibits any kind of behaviour that is "indecent" or "repugnant to the modesty or honour" towards a working woman irrespective of her rank or status. The Committee notes from the National Review Report for Beijing +25 (2019), that with the increased participation of women in economic activities, workplace harassment has also become evident in many places and needs urgent prevention. In this regard, it notes with ***interest*** that the National Action Plan to Prevent Violence Against Women and Children (2018–2025) provides for a wide definition of sexual harassment which includes both quid pro quo and hostile environment sexual harassment. The Committee notes however that section 332 of the Labour Act and the Domestic Worker's Protection and Welfare Policy, 2015, do not contain such a comprehensive definition of all forms of sexual harassment. The Committee considers that without a clear definition and prohibition of both quid pro quo and hostile work environment sexual harassment, it remains doubtful whether the legislation effectively addresses all forms of sexual harassment and that the scope of the protection against sexual harassment should cover all employees both male and female, with respect not only to employment and occupation, but also vocational education and training, access to employment and conditions of employment (see [2012 General Survey on the fundamental Conventions](#), paragraphs 789, 791 and 793). ***The Committee asks the Government to take steps to ensure that: (i) a comprehensive definition and a clear prohibition of all forms of sexual harassment, including quid pro quo and hostile work environment sexual harassment, in employment and occupation is included in the Labour Act and/or the Anti-Discrimination Bill and covers all workers, both women and men; (ii) preventive measures are taken, including awareness-raising initiatives on the social stigma attached to sexual harassment, in cooperation with workers' and employers' organizations; and (iii) procedures and remedies are established. The Committee also asks the Government to provide information on the number, nature and outcome of any complaints or cases of sexual harassment in education, training and employment and occupation dealt with by labour inspectors, the courts or any other competent authority.***

Articles 2 and 3. Equality of opportunity and treatment for men and women. With regard to the promotion of non-traditional fields of study and occupations for women and girls and the reduction of the number of girls dropping out of school early, the Committee notes the Government's indication that: (1) primary and secondary education is free for girls and they are provided a stipend for higher studies; (2) in technical and vocational education, institutes have been established for women only; (3) the number of places reserved for women in technical and vocational institutes increased from 10 per cent

to 20 per cent during the reporting period; and (4) extensive training, job creation, labour market participation promotion and small and medium-sized enterprise support services for women have been undertaken. The Committee further notes that the Department of Inspection for Factories and Establishments (DIFE) has started a project entitled Gender Equality and Women's Empowerment at the Workplace, which includes training, advocacy programmes and policy. The Government also indicates that it is maintaining quotas in public sector employment, but the Committee notes that it has not reported on results achieved or how such quotas are implemented. The Committee notes the indication by the UT-ILS Committee that women are discriminated against and that it has provided examples of discriminatory job advertisements allowing only male applicants. It further notes the UT-ILS Committee's indication that: (1) the society is patriarchal in nature, and women feel less safe in performing certain jobs outside; (2) there is a problem with ensuring equality in women's employment, and there are still barriers for women in obtaining jobs in certain sectors and certain ranks (namely, managerial positions and mid-level management). The union adds that, while the activities of the Government to promote women's employment are appreciated: (1) the scope of this promotion should be widened; (2) the quota in the public sector is being applied and is having positive social impacts; and (3) the Government needs to ensure that the affirmative action policy that it has developed is applicable to the private sector as well. ***The Committee asks the Government to step up its efforts to: (i) address legal and practical obstacles to women's employment, including patriarchal attitudes and gender stereotypes regarding their aspirations and capabilities, and their lack of access to productive resources; (ii) enhance women's economic empowerment and promote their access to equal opportunities in formal employment and decision-making positions; and (iii) encourage girls and women to choose non-traditional fields of study and occupations while reducing the number of girls dropping out of school early. The Committee asks the Government to provide information on: (i) the content and implementation of the DIFE project on Gender Equality and Women's Empowerment at the Workplace, and its impact on women's employment; (ii) the implementation and results of the quotas in public employment (15 per cent) and primary school teaching (60 per cent); and (iii) the participation of men and women in education, training, employment and occupation, disaggregated by occupational category, if possible, in both the public and private sectors, as well as the informal economy.***

Domestic workers. The Committee recalls that the Labour Act, 2006, excludes domestic workers from its scope of application. It notes the TU-ILS Committee's indication that: (1) discussions on including domestic workers within the scope of law are ongoing; (2) the Government has established a committee called the "Central Monitoring Cell on Domestic Workers' Protection and Welfare Policy" which includes representatives of the Ministry of Labour, workers' and employers' organizations and civil society; and (3) there is only limited training for domestic workers within the country and there are not enough organizations and opportunities for skills development for domestic workers. The Committee notes the Government's indication that the Domestic Workers Protection and Welfare Policy, 2015, gives effect to the principle of equal rights and basic human rights for all citizens as enshrined in the Constitution. It notes, however, that the provisions of the policy do not provide domestic workers with the same protections as enshrined in the Labour Act 2006, and that the High Court, in a ruling of August 2022, deemed that the policy had so far failed to frame "proper and complete guidelines" to protect domestic workers. The Committee further notes that the policy does not prohibit direct and indirect discrimination on at least all of the grounds enumerated in *Article 1(1)(a)* of the Convention and does not cover both the formal and informal economy. The Committee once again recalls that all categories of workers, including domestic workers, should enjoy equality of opportunity and treatment irrespective of race, colour, sex, religion, political opinion, national extraction or social origin, in all aspects of employment (see 2012 General Survey on the fundamental Conventions, paragraph 778). In addition, the Committee notes from the Beijing +25 report that some 90 per cent of domestic workers are women and domestic workers are a category facing gender-based violence. The Committee recalls the 2016 concluding observations of the United Nations Committee on the Elimination of Discrimination against

Women (CEDAW) which highlighted the difficult situation of women domestic workers in the country and expressed concern that women domestic workers are subject to violence, abuse, food deprivation and murder; that such crimes go unreported; and that the victims have limited access to justice and redress (CEDAW/C/BGD/CO/8, 25 November 2016, paragraph 32). ***The Committee asks the Government to take the necessary steps to enact the Domestic Workers Protection and Welfare Policy, 2015, into law and include therein provisions defining and prohibiting direct and indirect discrimination based on at least all of the grounds enumerated in the Convention in all aspects of employment and occupation. In the meantime, it asks the Government to ensure that: (i) the policy is effectively implemented; (ii) domestic workers are protected, in practice, against any form of discrimination in employment and occupation, including all forms of sexual harassment; (iii) they enjoy full equality of opportunity and treatment with other categories of workers covered by the Labour Act; and (iv) they have effective access to procedures for redress and remedies. The Committee asks the Government to provide information on: (i) the work of the Central Monitoring Cell on Domestic Workers' Protection and the Welfare Policy regarding non-discrimination and equality, including stereotypes and prejudices; and (ii) the number, nature and outcome of complaints of discrimination filed by domestic workers, disaggregated by sex, race, national extraction and social origin.***

The Committee is raising other matters in a request addressed directly to the Government.

Barbados

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1974)

Previous comment

The Committee notes with **deep concern** that the Government's report, due since 2018, has not been received. In light of its urgent appeal launched to the Government in 2021, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

Articles 1(b) and 2(2)(a) of the Convention. Equal remuneration for work of equal value. Legislation. With reference to its previous comments, the Committee notes, from the Government's 2019 report under the national-level review of implementation of the Beijing Declaration and Platform for Action, 1995 (Beijing+25 national report), that the National Gender Policy has not yet been adopted. The Employment (Prevention of Discrimination) Act having been adopted on 5 August 2020, the Committee notes with **regret** that it does not contain an equal pay provision. The Committee further notes that the Government, in its Beijing+25 national report, states that although there is no equal pay legislation it ensures that "equal pay for equal work" is guaranteed in the public service and that there is no disparity between the salaries paid to men and women doing the "same job". The Committee recalls, once again, that the principle of the Convention not only guarantees equal remuneration for equal, the same or similar work, but also addresses situations where men and women perform different work that is nevertheless of equal value. In this regard, it refers the Government to its [2012 General Survey on fundamental Conventions](#), paragraphs 672–675. ***The Committee once again asks the Government to take the necessary measures to ensure that the principle of equal remuneration for men and women for work of equal value is fully reflected in the National Gender Policy, and to provide a copy of the policy once it is adopted. It also asks the Government to provide information on any measures taken or envisaged to capture the principle of equal pay for work of equal value in its legislation.***

Gender pay gap and occupational segregation. The Committee notes from the statistics published by the Barbados Statistical Service (Labour Force Survey 2021) that of all women employed in 2021, 41.2 per cent earned less than 500 Barbadian dollars (BBD) per week compared with 36.2 per cent of men employed in that same year. The Committee notes that 31.2 per cent of women and 35 per cent of men earned between BBD500 and BBD999 per week, and that 17.4 per cent of women and 15.7 per cent

of men earned BBD1,000 per week or more. The Committee once again notes, from the Labour Force Survey 2021, the persistent occupational gender segregation between men and women, with women mostly employed as service workers and clerks while men are mostly employed as craft and related workers or plant and machine operators. The Committee notes that, when looking at economic sectors, women workers continue to be highly represented in “Accommodation and Food Services”, “Finance and Insurance”, “Education” and “Human Health and Social Work” and men continue to largely predominate in the “Construction” and “Transportation and Storage” sectors. The Committee also notes, from the concluding observations of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), the disproportionately high unemployment rate among women and the persistently wide and increasing gender pay gap in all sectors, continued occupational segregation in the labour market and the concentration of women in low-wage jobs in the formal and informal sectors (CEDAW/C/BRB/CO/5-8, 24 July 2017, paragraph 33). The Committee further refers to its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). ***The Committee once again asks the Government to take measures to reduce the pay gap between men and women and to increase the employment of women in jobs with career opportunities and higher pay. The Committee once again recalls that wage inequalities may arise due to the segregation of men and women into certain sectors and occupations, and therefore again asks the Government to provide information on the results achieved under the National Gender Policy, once adopted, to address occupational gender segregation and to increase the employment of women and men in sectors and occupations in which they are under-represented.***

The Committee is raising other matters in a request directly addressed to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1974)

Previous comment

The Committee notes with **deep concern** that the Government’s report, due since 2018, has not been received. In light of its urgent appeal launched to the Government in 2021, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

Article 1 of the Convention. Definition of discrimination. Legislative developments. The Committee notes that the Employment (Prevention of Discrimination) Bill 2020 appears to have been enacted; however, it has not received a copy of the Act but only has access to the Bill. ***The Committee asks the Government to provide a copy of the Act, if enacted, or to provide information as to why the Bill has not been brought into law.***

The Committee notes that, under section 3(1) of the above-mentioned Bill, “a person discriminates against another person where: (a) the person, on a ground specified in subsection (2), directly or indirectly, whether intentionally or not, makes a distinction, creates an exclusion or shows a preference, the intent or effect of which is to subject the other person to any disadvantage, restriction or other detriment; or (b) the person, directly or indirectly, whether intentionally or not, subjects the other person to any disadvantage, restriction or other detriment in the following circumstances: (i) a ground specified in subsection (2) applies to the other person; (ii) as a consequence of the ground the other person does not comply, or is not able to comply, with a particular requirement of the first-mentioned person; (iii) the nature of the requirement is such that a substantially higher proportion of persons to whom the ground does not apply complies, or is able to comply, with the requirement; and (iv) the requirement is not reasonable in the circumstances”. The Bill also prohibits an employer from discriminating in relation to job creation and recruitment (section 4) and with regard to the terms and conditions of employment, disciplinary action or dismissal (section 5). While reiterating its concern at

the absence of a Government report, the Committee takes due note of this new definition which appears to cover both direct and indirect discrimination in employment and occupation. ***The Committee requests the Government to: (i) clarify whether the prohibition of discrimination applies to all aspects of occupation and employment, including access to vocational training; and (ii) if the Bill was passed, provide information on the application in practice of section 3(1) of the Employment (Prevention of Discrimination) Act, including by providing a copy of any related court decision.***

Article 1(1)(a). Discrimination on the grounds of sex. Sexual harassment. With reference to its previous comments, the Committee notes the adoption of the Employment Sexual Harassment (Prevention) Act, 2017, which defines and prohibits sexual harassment in the workplace, and sets out a clear grievances procedure. The Committee notes that section 3(1) of the Act defines sexual harassment as including a number of unwelcome sexual behaviours, listed in sub-paragraphs (a) to (g), “in circumstances where a reasonable person would consider the conduct to be offensive”. Section 3(2) adds that a single incident can be considered as sexual harassment. The Committee also notes that section 5(1) of the Act provides that “[a]n employer or a supervisor of an employee shall not in any manner suggest to an employee that the prospects or working conditions of that employee are contingent upon the employee’s acceptance or toleration of sexual advances”. ***While reiterating its concern at the absence of a Government report, the Committee takes due note of this positive development and requests the Government to provide: (i) information on how sections 3 and 5 of the Employment Sexual Harassment (Prevention) Act are interpreted and applied in practice, for example by providing copies of any court decisions on claims brought under the Act; and (ii) the number of complaints filed under the Act, the sanctions imposed and remedies granted.***

Article 1(1)(a) and (b). Grounds of discrimination. The Committee notes that section 3(2) of the Employment (Prevention of Discrimination) Bill 2020 prohibits discrimination on the basis of race, origin, political opinion, trade union affiliation, colour, creed, sex, sexual orientation, social status, marital status, domestic partnership status, pregnancy, maternity, family responsibility, medical condition, disability, age and physical features. While welcoming the inclusion of a number of the grounds set out in *Article 1(1)(a)* of the Convention and additional grounds as foreseen in *Article 1(1)(b)*, the Committee notes with **regret** that the grounds of national extraction and social origin, specified in the Convention under *Article 1(1)(a)*, are not included as prohibited grounds of discrimination. ***The Committee requests the Government to indicate: (i) the measures envisaged to add to the legislation the grounds of national extraction and social origin in the list of prohibited grounds of discrimination; and (ii) how, in practice, workers are being protected against discrimination, in all aspects of employment and occupation, on the basis of these two grounds.***

The Committee is raising other matters in a request addressed directly to the Government.

Belgium

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1952)

Previous comment

The Committee notes the joint observations submitted on 1 September 2022 by the General Confederation of Liberal Trade Unions of Belgium (CGSLB), the Confederation of Christian Trade Unions (CSC) and the General Labour Federation of Belgium (FGTB).

Articles 1 and 2 of the Convention. Gender segregation in education and in employment and occupation. Pay gaps. Scope of comparison. The Committee notes the information provided by the Government in its report on the projects implemented in various regions to combat occupational segregation and, in particular, gender stereotypes in education, training and vocational guidance. It recalls that the Act of 28 July 2011 requires that each sex is guaranteed to be represented by at least one third of the members

of the boards of directors of autonomous public enterprises (EPAs) and the National Lottery (these provisions entering into force in January 2012), and also of private enterprises listed on the stock exchange (these provisions coming into force in 2017 for large enterprises and in 2019 for small and medium-sized enterprises). According to the third review of this Act, carried out by the Institute for the Equality of Women and Men (IEFH) in 2019 and cited by the Government, between 2008 and 2017 the proportion of women on the boards of all the enterprises examined rose from 8.2 to 26.8 per cent. In 2017, 66.1 per cent of these enterprises achieved the legally required one third representation of women. As for the federal administration, while the Government indicates that it has achieved the legal target (established by a 2012 Royal Decree) as 35.8 per cent of representatives were women in 2021, the Committee notes that an IEFH study for 2012–17 indicates that Belgium ranked last among the 28 European Union (EU) Member States in 2017 with 18.6 per cent of women at the two highest levels (the positions of chairpersons of management committees and managing directors) compared with 41.7 per cent for the EU. The Committee also notes that, in its "Report on the pay gap between women and men in Belgium" published in 2021, the IEFH recommends "tackling segregation at its roots" by combating gender stereotypes from early childhood onwards, and subsequently in training, vocational guidance and access to employment, both by encouraging girls to opt for traditionally "male" subjects and by raising the status of so-called "female" subjects and facilitating access for boys. The IEFH also notes that the comparative basis for work of equal value is circumvented by the Wage Gap Act of 22 April 2012 since, by focusing on job classifications, the comparison work is carried out at sub-sector level (joint committees) and, in practice, this narrows the comparative basis down to the same enterprise, the same job title and seniority, and so on. The Committee notes that the IEFH calls for the development of an instrument to compare one job of equal value with another, including between different sectors. Broadening the comparative basis for work of equal value is, in its view, a necessary step towards achieving the goal of eliminating the gender pay gap for work of equal value. In this regard, the Committee recalls that ensuring a sufficiently broad scope of comparison is essential for the application of the principle of equal remuneration for work of equal value, given the continued prevalence of occupational gender segregation. It refers to its comments in this regard in paragraphs 697 et seq. of its [2012 General Survey on the fundamental Conventions](#). ***The Committee encourages the Government to take steps to ensure that a broad scope of comparison is used when implementing the principle of equal remuneration for men and women for work of equal value. It requests the Government to continue providing information on developments in the gender pay gap, and on any measures to narrow it, in particular on the manner in which occupational gender segregation is addressed.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1977)

Previous comment

The Committee notes the joint observations submitted on 1 September 2022 by the General Confederation of Liberal Trade Unions of Belgium (CGSLB), the Confederation of Christian Trade Unions (CSC) and the General Labour Federation of Belgium (FGTB).

Article 1(1)(a) of the Convention. Discrimination on the basis of sex and/or gender. Pregnancy and maternity. The Committee notes with **interest** the adoption on 4 February 2020 of the Act amending the Act of 10 May 2007 to combat gender discrimination, extending the prohibition of discrimination to new protected criteria, namely, paternity, co-maternity, breastfeeding, adoption, medically assisted procreation and sexual characteristics, the main objective being to give greater visibility to situations relating to maternity or the desire for maternity. The Committee welcomes the publication of a leaflet to inform working parents and pregnant workers of their rights and the support they can obtain from

the Institute for the Equality of Women and Men (IEFH) and the labour inspectorate (the Social Legislation Supervisory Directorate) and notes the many court rulings following complaints lodged by or in collaboration with the IEFH (some of which resulted in an amicable settlement). In this regard, the Committee notes that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern as to the high number of complaints about employment discrimination based on pregnancy and maternity (CEDAW/C/BEL/CO/8, 31 October 2022, paragraph 43). It notes that in 2020, 36 per cent of the 350 reports concerning work situations received by the IEFH involved discrimination related to pregnancy and maternity. As indicated by the IEFH in its 2020 progress report, cases of discrimination and unequal treatment on the grounds of pregnancy, maternity or the desire to have a child remain a major problem in Belgian society, a finding shared by the CGSLB, CSC and FGTB in their observations. ***The Committee requests the Government to continue to support and take practical steps to prevent and eliminate discrimination on the grounds of pregnancy, maternity and/or the desire for maternity, in particular by stepping up labour inspections and by conducting information and awareness-raising activities among workers, employers, their respective organizations and the general public. The Government is also requested to continue providing information on cases of discrimination in employment and occupation dealt with by the IEFH, the labour inspectorate and the courts, as well as on the outcome of any legal proceedings initiated in this regard, indicating the sanctions imposed and the compensation awarded.***

The Committee is raising other matters in a request addressed directly to the Government.

Bosnia and Herzegovina

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

Previous comment

Articles 1(b) and 2(2)(a) of the Convention. Work of equal value. Legislation. The Committee recalls that the definitions of “work of equal value” in both section 77(1) of the Law on Labour of the Federation of Bosnia and Herzegovina (FBiH) and section 120(2) and (3) of the Law on Labour of the Republika Srpska limit the concept of “work of equal value” to the same level of each of the evaluation factors enumerated, such as qualifications, capacity to work and responsibility, physical and intellectual work, skills, working conditions and results of work. The Committee notes with **regret** that the definition of “work of equal value” in section 89 of the Law on Labour of the Brčko District No. 34/19, which entered into force on 1 January 2020, has a wording similar to the Law on Labour of the Republika Srpska and is therefore too restrictive to give full effect to the principle of equal remuneration for work of equal *value* set out in the Convention. The Committee emphasizes once again that the concept of “work of equal *value*” must permit a broad scope of comparison. While factors such as skills, responsibility, effort and working conditions are clearly relevant in determining the value of the jobs, when examining two jobs, the value does not have to be the same with respect to each factor – determining value is about the overall value of the job when all the factors are taken into account. In this regard, the Committee wishes to point out that, for the purpose of the Convention, the relative value of jobs with varying content is to be determined through objective job evaluation on the basis of the work performed and is different from performance appraisal, which aims at evaluating the performance of an individual worker in carrying out his or her job. Objective job evaluation is therefore concerned with evaluating the job and not the individual worker. The Committee therefore underlines that factors such as “capacity to work” and “results of work” relate to the performance appraisal of the individual worker rather than to objective job evaluation (see the [2012 General Survey on the fundamental Conventions](#), paragraphs 673, 677 and 696). ***The Committee asks the Government to take the necessary steps to amend the provisions regarding the definition of “work of equal value” in the Law on Labour of the FBiH, the Law on Labour of the Republika Srpska, and the Law on Labour of the Brčko District in the near future, so as to ensure***

that the legislation: (i) provides for a definition of “work of equal value” which is based on objective criteria; and (ii) addresses situations where men and women perform different work requiring different qualifications and skills, levels of responsibility and efforts and with different conditions of work but that is of equal value overall. The Committee asks the Government to provide information on any initiatives taken to amend the labour legislation for this purpose.

The Committee is raising other matters in a request directly addressed to the Government.

Brazil

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1957)

Previous comment: [direct request](#)

The Committee notes the observations of: (i) the Single Confederation of Workers (CUT) received on 2 September 2022; and (ii) the International Organisation of Employers (IOE) and the National Confederation of Industry (CNI) received on 30 August 2022. **The Committee requests the Government to provide its comments with respect to the observations of the CUT.**

Articles 1–4 of the Convention. Assessing and addressing the gender pay gap and its underlying causes. The Committee notes that, according to the Brazilian Institute of Geography and Statistics (IBGE), the gender pay gap has decreased slightly since 2017 but remains high, being estimated at 22.3 per cent in 2019 (compared with 22.5 per cent in 2017). The remuneration of women was systematically lower than that of men in all occupational categories, except for members of the armed forces, and the gender pay gap was as wide as 38.1 per cent in management positions, in 2019. The Committee notes the Government’s indication that efforts are being made in relation to higher positions, where pay differences between men and women are still very large and women are still facing difficulties in accessing such positions. In that regard, the Committee notes that, in their observations, the CNI and the IOE indicate that in recent years, public policies combined with efforts from the private sector have resulted in an increased participation of women in the formal economy, more particularly in positions and economic sectors with higher pay, and their departure from informal work characterized by low remuneration. The Committee notes this information but regrets the lack of information provided by the Government on the concrete measures elaborated and implemented to address the persistent gender pay gap. **The Committee asks the Government to strengthen its efforts to address the gender pay gap and its underlying causes, including by enhancing women’s access to jobs with career prospects and higher pay. It also asks the Government to provide information on: (i) the content of the proactive measures taken and implemented to that end and their outcomes; and (ii) the levels of remuneration in the various economic sectors, disaggregated by sex and occupational category, so as to enable the Committee to assess the progress made.**

Articles 1(b) and 2(2)(a). Equal remuneration for work of equal value. Legislation. The Committee notes that section 461 of the Consolidation of Labour Laws (CLT), as amended by Law No. 13.467 of 2017, guarantees the right to equal remuneration without discrimination on the grounds of sex, ethnicity, nationality or age to workers “performing the same functions, for all work of equal value, rendered to the same employer, in the same business establishment”. Section 461(1) further defines “work of equal value” as work “performed with the same productivity and technical perfection, among people working for the same employer with a difference of length of years of service for that employer of not more than four years and with a difference of length of tenure in the post of not more than two years”. The Committee notes the Government’s statement, in its report, that section 8 of Decree No. 9.571, of 21 November 2018, establishing the National Guidelines on Business and Human Rights, provides that companies should address discrimination and “ensure equal pay and benefits for positions and functions with similar attributions, regardless of gender”. The Government adds that a “Questions and Answers Booklet on Discrimination at Work” was published in 2018 by the Ministry of Labour and

provides as an example of direct discrimination the payment of a lower salary to women “when the functions are identical and the service is provided for the same employer in the same establishment”. In this context, the Committee wishes to draw the Government’s attention to the fact that the provisions contained in its national legislation are narrower than the principle laid down by the Convention. The concept of “work of equal *value*” encompasses not only the same work, or work in the same occupation or activity, performed by men and women under the same conditions and specifications, but should also allow for the comparison of work performed by men and women that is of an entirely different nature, which is nevertheless of equal value. Furthermore, the application of the principle of equal remuneration for work of equal value is not limited to comparisons between the jobs of men and women in the same establishment or with the same employer. It allows for a much broader comparison to be made between jobs performed by men and women in different places or enterprises, or for different employers. The Committee also emphasizes that, while factors such as skills, responsibility, effort and working conditions are clearly relevant in determining the value of the jobs, when examining two jobs, it is important to note that the value does not have to be the same with respect to each factor – determining value is about the overall value of the job when all the objective factors are taken into account. In this regard, it wishes to point out that, for the purpose of the Convention, the relative value of jobs with varying content is to be determined through objective job evaluation on the basis of the work performed and is different from performance appraisal, which aims at evaluating the performance of an individual worker in carrying out his or her job. Objective job evaluation is therefore concerned with evaluating the job and not the individual worker. The Committee therefore underlines that factors such as “productivity” and “technical perfection” relate to the performance appraisal of the individual worker rather than to objective job evaluation (see the [2012 General Survey on the fundamental Conventions](#), paragraphs 673–679 and 695–709). ***The Committee urges the Government to take the necessary steps to amend the Consolidation of Labour Laws (CLT), so as to give full legislative expression to the principle of the Convention and include a definition of “work of equal value” based on objective criteria, such as skills and qualifications, effort, responsibilities and working conditions. It asks the Government to provide information on any steps taken in this regard and their outcomes.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1965)

Previous comment

The Committee notes the observations of the Brasilia Bank Workers Union (Bancários/DF), the National Federation of Caixa Econômica Federal Staff Associations (FENAE) and the Single Confederation of Workers (CUT) received on 1 September 2022. It also notes the observations from the CUT, received on 2 September. ***The Committee asks the Government to provide its comments thereon.***

Article 1(1)(a) of the Convention. Discrimination based on sex. Sexual harassment. The Committee notes that the Bancários/DF, FENAE and CUT express concern about the numerous cases of sexual harassment at work in the finance, banking and judicial sectors. They highlight that: (1) women suffer three times more sexual harassment than men at the workplace, while 97 per cent of victims do not report this situation; (2) data from the Higher Labour Tribunal shows that, between January 2015 and January 2021, approximately 26,000 persons filed cases for sexual harassment at work; (3) as regards the Federal Public Administration, there were 903 reports of sexual or moral harassment in the first half of 2022 through the Digital Ombudsman System (e-Ouv), which represent an 88.5 per cent increase in comparison with the first six months of 2021; and (4) a survey from the Office of the Comptroller General of Brazil (CGU) revealed that in the Federal Public Administration only one third of sexual harassment cases resulted in effective punishment. In their views, cases of sexual harassment at work are

characterized by victims' difficulties in accessing justice; long delays; and inadequate sanctions. The Committee notes with **concern** these allegations. **The Committee asks the Government to provide its comments thereon.**

The Committee notes the Government's indication, in reply to its previous comments, that section 216-A of the Penal Code, as amended by Law No. 10.224 of 2001, criminalizes sexual harassment and establishes penalties of up to two years' imprisonment. The Committee recalls that criminal provisions are not completely adequate in discrimination cases because, *inter alia*, they do not always provide a remedy to the victim and are very unlikely to cover all forms of conduct that amount to sexual harassment. **Considering the need to take into account the specificities of sexual harassment in employment and occupation and the wide range of behaviours to cover, the Committee asks the Government to take the necessary measures to include in the labour legislation or in legislation applicable to labour relations a clear definition and prohibition of both *quid pro quo* and hostile environment sexual harassment, including by co-workers, as well as preventive measures, redress mechanisms and appropriate sanctions.**

The Committee notes with **interest** the adoption of Law No. 14.457 of 21 September 2022 implementing the "Emprega + Mulheres e Jovens" programme, which provides that companies with more than 20 employees must adopt specific measures to prevent and address sexual harassment and other forms of violence at work (section 23). However, the Committee observes that the Bill on Equal Opportunities and Treatment for Women in Employment (PLS No. 136/2011) which included moral, physical, psychological and sexual harassment as a form of discrimination against women has been set aside. It further notes, that, in its 2021 national report to the United Nations (UN) Human Rights Committee (International Covenant on Civil and Political Rights) the Government acknowledges that violence against women remains one of the main challenges it currently faces (CCPR/C/BRA/3, 25 August 2021, paragraph 60). **The Committee asks the Government to provide information on: (i) the implementation of the "Emprega + Mulheres e Jovens" programme in relation to the measures taken by companies to prevent and address sexual harassment at work; (ii) any other practical measures taken, both in the public and private sectors, including awareness-raising among employers, workers and their organizations; and (iii) the number of complaints or cases of sexual harassment dealt with by the competent authorities, including sanctions imposed and remedies granted.**

Articles 2, 3 and 5. Equality of opportunity and treatment irrespective of race, colour or national extraction. People of African descent. The Committee notes that, according to the National Household Sample Survey (PNAD) carried out by the Brazilian Institute of Geography and Statistics (IBGE) from 2012 to 2018, the average income of the Black population is equivalent to only 60 per cent of that received by the White population and this proportion remained mostly unchanged since 2012 (IBGE, 4th trimester, 2012–2018). Furthermore, according to the statistical information in the Government's report to the UN Committee on the Elimination of Discrimination against Women (CEDAW), the literacy rate for the Black population remains lower (91.1 per cent in 2019 compared with 96.4 per cent for the rest of the population). Only 2.8 per cent of the Black population occupied decision-making positions in 2019, compared with 7.1 per cent for the rest of the population, while Black workers were more concentrated in the informal economy (CEDAW/C/BRA/8-9, 17 March 2022, paragraph 87; and Annex to CEDAW report). The Committee recalls that several laws have been adopted to introduce employment quotas in the civil service and publicly-owned companies at the federal level for the Black population (Law No. 12.990/2014) and increase their access to federal universities (Law No. 12.711/2012). The Government indicates that other special measures of assistance have been adopted or are pending adoption, namely: (1) Decree No. 9.427 of 28 June 2018 which provides that 30 per cent of vacancies for internships in the Federal Public Administration are reserved for the Black population; (2) Bill No. 2.067 of 2021 to introduce in public procurement contract requirements clauses regarding quotas for employment for the Black population; and (3) Bill No. 33 of 2016 to amend the Federal Constitution in order to establish a fund for the promotion of racial equality in order to promote equal opportunities

and social inclusion of the Black population, including in education and vocational training. The Committee further notes the Government's indication regarding: (1) the adoption of Decree No. 10.933/22 of 10 January 2022 enacting the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance which now has constitutional status; and (2) the discussions that are under way to carry out a national campaign promoting equal opportunities for Black women in the labour market. The Committee however notes that the UN High Commissioner for Human Rights expressed specific concern at the structural racism, discrimination and violence that people of African descent face in Brazil and called for urgent reforms of laws, institutions and policies to overcome that situation (Press briefing note on Brazil, 24 November 2020). Furthermore, in the report on the universal periodic review, it is indicated that the United Nations country team reinforced the importance of comprehensive policies that confront racism and aggravated discrimination and reported that 70.8 per cent of out-of-school compulsory school age children were Black boys and girls (A/HRC/WG.6/41/BRA/2, 25 August 2022, paragraphs 8 and 43). The Committee further notes that, in its 2021 report on the situation of human rights in Brazil, the Inter-American Commission on Human Rights (IACHR) highlighted that people of African descent still face discrimination in their access to education, the formal labour market and management positions in the private sector (paragraphs 20 and 21). While welcoming the measures implemented by the Government to enhance equality of opportunity and treatment in education and employment for people of African descent, in particular through affirmative actions, the Committee notes with **concern** that such measures appear to have yielded few tangible results in practice so far. ***The Committee urges the Government to step up its efforts to adopt and implement both legal and practical measures with a view to promoting equality of opportunity and treatment of people of African descent in employment and occupation, including through public awareness-raising activities to address racial discrimination and promote tolerance among the public. It also asks the Government to provide information on: (i) any assessment carried out of the progress made to date in addressing the situation of people of African descent in employment and occupation, including results achieved through the quota system; (ii) any measures taken in law and in practice to enhance the access of people of African descent to education, vocational training and employment opportunities, including in the formal economy and in decision-making positions, and the results achieved; and (iii) the participation of people of African descent in education, training, employment and occupation, disaggregated by sex; and (iv) the combined effects of sex and ethnicity on the distribution and participation of workers in the various occupations and economic sectors, including on their remuneration rates.***

General observation of 2018. The Committee wishes to draw the Government's attention to its [general observation on discrimination on grounds of race, colour and national extraction](#) adopted in 2018.

The Committee is raising other matters in a request addressed directly to the Government.

Bulgaria

Workers with Family Responsibilities Convention, 1981 (No. 156) (ratification: 2006)

Previous comment

Article 3 of the Convention. National policy. The Committee recalls that a number of measures aimed at facilitating the reconciliation of work and family responsibilities provided for in the Labour Code and the Civil Service Code are available only to women. In this regard, it also recalls the Government's previous statement that sections 140, 310 and 312 of the Labour Code should be amended to be made available to fathers as well as mothers. It therefore notes with **regret** that the Government, in its report, appears to reverse this opinion, stating that the prohibition on night work under section 140 is an "expression of the special protection of mothers laid down in article 47, paragraph 2, of the Constitution"

and that “the prohibition is therefore linked to established legal principles and the guarantee of the mother’s rights, which is part of the overall legislation.” The Committee further notes the Government’s statement that “under Article 313 of the Labour Code, the mother’s rights under articles 310 and 312 of the Labour Code may be enjoyed by the father when the mother is unable to enjoy them” including “both situations where the mother is objectively prevented from exercising these rights (e.g. illness) and where this would affect her professional development”; and that “the law leaves it to the parents themselves to decide which of the parents should benefit from the rights under Articles 310 and 312 of the Labour Code.” It finally notes the Government’s statement “that Bulgarian legislation grants equal rights to male and female workers or employees with family responsibilities, in accordance with general legal principles.” The Committee recalls that the Convention has the dual objective of creating equality of opportunity and treatment in working life between men and women with family responsibilities, on the one hand, and between men and women with such responsibilities and workers without such responsibilities, on the other (1993 General Survey on workers with family responsibilities, paragraph 25). The Committee draws the Government’s attention to the fact that the assumption that the main responsibility for family care and the household lies with women, thus reinforcing stereotypical attitudes regarding the roles of men and women and existing gender inequality, runs counter to the objectives of the Convention. The Committee therefore considers that the measures taken in favour of workers with family responsibilities should be made available to men and women equally. **Consequently, the Committee reiterates its request that the Government, with the participation of workers’ and employers’ organizations, take steps to review and amend the legislation with a view to ensuring that the measures applying the Convention are available to men and women workers with family responsibilities on an equal footing, and to provide information on any progress made in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

Burundi

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1993)

The Committee notes that the Government’s report has not been received. It is therefore bound to repeat its previous comments.

Article 1(1)(a) of the Convention. Discrimination on the basis of sex or gender Gender-based violence. In its previous comment, the Committee asked the Government to provide information on the following points: (1) the implementation and application in practice of Act No. 1/13 of 22 September 2016 concerning the prevention and suppression of gender-based violence and victim protection (hereinafter “the Act of 2016”), which defines and punishes, inter alia, gender-based violence (GBV), including sexual violence, sexual harassment, traditional gender-hostile practices and economic violence, which is defined as denying a spouse access to family resources or forbidding a spouse to work, indicating the number and type of cases of gender-based violence dealt with by the labour inspectorate and the courts, as well as the penalties imposed; (2) the steps taken or contemplated to inform and raise the awareness of employers, workers and their respective organizations, labour inspectors, judges and also the general public with regard to action against gender-based violence, including the steps taken to publicize the content of the Act of 2016; and (3) the activities of the Independent National Human Rights Commission (CNIDH) against gender-based violence in employment. The Committee notes from the Government’s report that: (1) the labour inspectorate has not identified any cases of gender-based violence in employment and occupation, but the courts dealt with 4,004 cases of gender-based violence between 2016 and September 2018, with penal servitude being imposed as a penalty; (2) the measures taken by the Government to raise awareness of the Act of 2016 include training of trainers at the Training Centre for Legal Personnel; the launching, by the Second Vice-President of the Republic, of an outreach campaign; the translation of the Act into the national language (Kirundi); raising the awareness of the different State services; broadcasting; community awareness-raising through community leaders and the Women’s National Forum; and (3) the CNIDH

undertook a number of activities aimed at combating gender-based violence in employment. The Government adds that the CNIDH took part in activities led by various partners in the GBV field to hold exchanges with them, review their achievements and provide legal support. Finally, the Committee notes the Government's intention to compile an inventory of laws that discriminate against women with a view to amending them in accordance with the Constitution and ratified international instruments, following the recommendations of the CNIDH. ***The Committee requests the Government to provide information on the progress achieved and to provide copies of the amended texts while conducting the inventory.***

Sexual harassment. In its previous comment, the Committee requested the Government to: (1) examine the possibility of expanding the definition of sexual harassment by adding the notion of a hostile, offensive or humiliating work environment, and to specify the procedure to be followed and the penalties that apply in cases of sexual harassment, in the absence of any specific provision in that regard in the Act of 2016; and (2) provide information on the practical steps taken to prevent and eliminate sexual harassment in the public and private sectors, including measures designed to raise the awareness of employers, workers and their respective organizations with regard to the prevention and treatment of sexual harassment. The Committee notes the Government's indication that the Gender Commission of the National Assembly, meeting to review progress in raising awareness of the Act of 2016 and to make recommendations, has suggested amending the Act in view of its lack of compliance with the new Penal Code and with the Gender Commission's definition of sexual harassment. Regarding the procedure to be followed and penalties applied in cases of sexual harassment, the Government indicates that those are provided under section 586 of the Penal Code. Finally, in its Beijing+25 report, the Government adds that sexual harassment is included in the list of offences established in the Act of 2016, under section 61 of which all GBV offences cannot be amnestied and are imprescriptible with regard to both public action and the penalty imposed, which is irreducible and cannot be pardoned. ***The Committee hopes that the Government will take the opportunity provided by the revision of the Act of 2016 to complete the definition of sexual harassment by including the notion of a hostile, offensive or humiliating work environment and will provide information on the progress made in this regard. The Committee once again requests the Government to provide information on the practical steps taken to prevent and eliminate sexual harassment in the public and private sectors, including measures designed to raise the awareness of employers, workers and their respective organizations.***

Article 2. Equality of opportunity and treatment for men and women. In its previous comment, the Committee asked the Government to provide information on: (1) the increase in the rate of school enrolment and vocational training of girls, (2) women's access to productive resources and to employment, including to managerial posts in the public and private sectors; and (3) the adoption of a new national gender policy, replacing the one adopted in 2012, and to provide details on those sections relating to gender equality in employment and occupation.

With regard to the increase in the rate of school enrolment and vocational training of girls and women's access to productive resources and employment, the Committee notes from the Government's report, as well as from its Beijing+25 report, that the steps taken to increase the access of girls to primary and secondary school include: integrating the gender equity dimension in education into the National Development Plan 2018–27; the formulation of the Sectoral Plan for the Development of Education and Training (PSDEF) 2012–20; and the Transitional Plan for Education 2018–20 (PTE 2018–20), which was primarily aimed at basic education. The Committee also notes: the creation of a unit for inclusive education to take all vulnerable groups into account, such as persons with disabilities; the return to school of adolescent mothers; the 2018 launching of the “aunt/school and father/school” project to combat school drop-outs and unwanted pregnancies; the renewal of curricula and the eradication of gender stereotypes from text books and other scholastic tools; and the annual holding of the “Back to School” campaign. The school enrolment rate for girls stood at 87 per cent in 2018. Moreover, to encourage women and girls to take up sciences, engineering, technology and other disciplines, certificates were awarded to certain women and girls who excelled in the field of science during the celebration in February 2019 of International Day of Women and Girls in Science. With regard to women's access to productive resources and employment, the Committee notes an empowerment project for women which sets up guarantee funds to help women obtain microcredits. The project is already operating in eight provinces (Cibitoke, Bubanza, Bururi, Makamba, Rutana, Karusi, Bujumbura Marie and Bujumbura).

The Committee also notes the adoption of the National Development Plan (PND) 2018–27, the new frame of reference for planning, which also takes account of different social policies, such as the National

Gender Policy (PNG) and the 2017–2021 action plans for the PNG and for United Nations Security Council resolution No. 1325, which seek to encourage sectoral ministries to create gender units and to involve them in their sectoral planning and budgets to ensure effective ministerial programming and budgetary allocation for gender equity and equality. However, the Government indicates that it faces numerous challenges, including insufficient funds to implement the plans of action and the absence of coordination institutions. ***The Committee requests the Government to indicate the measures taken or envisaged to implement the action plans and the National Gender Policy.***

Indigenous peoples. In its previous comment, the Committee urged the Government to take the necessary steps to: (1) ensure equal access for the Batwa people to education, vocational training and employment, including to enable them to exercise their traditional activities; (2) combat stereotypes and prejudice against this indigenous community; and (3) to promote tolerance among all sections of the population. The Committee also asked the Government to provide information on: (1) the impact of Act No. 1/07 of 15 July 2016 revising the Forestry Code, which provides that the rational and balanced management of forests is based, inter alia, on the principle of participation by the grassroots communities; and (2) the exercise of traditional activities by the Batwa on the land where they live. The Committee notes the Government's indication that: (1) the cost of the schooling of Batwa pupils has been financed and that awareness-raising activities to encourage young Batwa to take up schooling have been carried out by various associations including Unite to Promote the Batwa (UNIPROBA); and (2) a secondary-level boarding school has been reserved exclusively for young Batwa (Gitega Province) and young Batwa have been helped to enter secondary education and university. The Government indicates that the measures taken to encourage adolescent mothers to return to school after pregnancy have not been welcomed by them. The Committee notes the information that young Batwa have received vocational training in car mechanics, carpentry, sewing, information technology, construction, etc. According to the Government, Act No. 1/07 of 15 July 2016 revising the Forestry Code has had a negative impact on the economic life of the Batwa people. They have lost an economic resource that enabled them to sell basketwork and traditional medicines based on wood and medicinal plants from the forest. Act No. 1/21 of 15 October 2013 issuing the Mining Code has also deprived the Batwa of access to clay to produce pottery to use or sell. To counter this problem, the Government has undertaken to mount forestry management projects in association with the Batwa people for the use of the forest under their control and subject to their permission. The Committee also notes that in its Beijing+25 report, the Government recognizes the Batwa community as the most marginalized group. It is for this reason that many legal, statutory and institutional mechanisms have been put in place so that the Batwa can participate fully in political, economic, social and cultural life and draw attention to their concerns. The Government refers, among the positive steps taken, to the distribution of land to the Batwa so that they can settle, and the training provided to Batwa community women from the Vyege locality, who are now able to build their own houses, or be employed on other construction sites. These training activities for Batwa women have also contributed to gender, social and sustainable development, by changing mentalities and improving social relations between the Batwa and other population groups, and by encouraging reflection on prejudice against the Batwa people. ***Taking into account the Government's assessment of the impact of the Forestry and Mining Codes on the ability of the Batwa to continue to practice their traditional occupations, the Committee requests the Government to: (i) intensify its efforts to ensure that indigenous peoples have the right to practice their traditional activities and retain their means of subsistence without discrimination; and (ii) provide detailed information on the forestry management projects developed in association with the indigenous peoples concerned and on the lands attributed to the Batwa.***

General observation of 2018. With regard to the above issues, and in more general terms, the Committee would like to draw the Government's attention to its general observation on discrimination based on race, colour and national extraction which was adopted in 2018. In the general observation, the Committee notes with concern that discriminatory attitudes and stereotypes based on the race, colour or national extraction of men and women workers continue to hinder their participation in education, vocational training programmes and access to a wider range of employment opportunities, resulting in persisting occupational segregation and lower remuneration received for work of equal value. Furthermore, the Committee considers that it is necessary to adopt a comprehensive and coordinated approach to tackling the obstacles and barriers faced by persons in employment and occupation because of their race, colour or national extraction, and to promote equality of opportunity and treatment for all. Such an approach should include the adoption of interlocking measures aimed at addressing gaps in education, training and skills,

providing unbiased vocational guidance, recognizing and validating the qualifications obtained abroad, and valuing and recognizing traditional knowledge and skills that may be relevant both to accessing and advancing in employment and to engaging in an occupation. The Committee also recalls that, in order to be effective, these measures must include concrete steps, such as laws, policies, programmes, mechanisms and participatory processes, remedies designed to address prejudices and stereotypes and to promote mutual understanding and tolerance among all sections of the population.

The Committee draws the Government's attention to its general observation of 2018 and requests the Government to provide information in response to the questions raised in that observation.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Cameroon

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1970)

Previous comment

Articles 1(b) and 2(2)(a) of the Convention. Equal remuneration for men and women for work of equal value. Legislation. The Committee notes the Government's indication that it took account of the Committee's request "in the negotiation of texts currently under discussion". ***In view of its repeated previous requests, the Committee hopes that the Labour Code (section 61) will be modified in the near future to include the principle of equal remuneration for men and women for work of equal value and requests the Government to provide information on any progress made in this respect.***

Articles 2(2)(c) and 4. Collective agreements. Cooperation with social partners. The Committee notes the Government's indication that, during the negotiation and elaboration of collective agreements, the Government representative on the committees in question makes certain that all discriminatory provisions, or those contrary to ratified texts, are removed. With regard to promoting the application of the principle of the Convention with the employers' and workers' organizations during wage fixing, the Committee notes that the Government is currently examining this point and will communicate the results of its reflection to the Committee. ***The Committee requests the Government to: (i) intensify its cooperation with the social partners to ensure that collective agreements, including those of the Cameroon Railway Company (CAMRAIL), mentioned in its previous comments, do not contain provisions that are discriminatory on the basis of sex and especially in respect of remuneration; and (ii) to supply extracts of the collective agreements that reflect the principle enshrined in the Convention. It also requests the Government to provide information on any proactive measures and follow-up measures taken to give effect to the principle of equal remuneration during the negotiation of collective agreements, such as, for example, the drafting of a standard clause on equal remuneration for men and women for work of equal value.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1988)

Previous comment

Articles 1(1)(a), 2 and 3(b) of the Convention. Definition and prohibition of discrimination. Legislation. National equality policy. Regarding the absence of provisions in the legislation that define and explicitly prohibit all forms of discrimination based on at least all of the grounds listed in the Convention in all aspects of employment and occupation, the Committee notes that the Government indicates in its

report that: (1) it has taken legal, regulatory and collective agreement-derived measures to prohibit all forms of discrimination; and (2) it regularly takes action to combat discrimination related, for example, to HIV in enterprises, in collaboration with the health and safety committees. The Committee nonetheless notes with **regret** that despite its repeated requests, no measure has been taken to define and prohibit all forms of discrimination based on race, colour, sex, political opinion, religion, national extraction and social origin at all stages of employment and occupation in the labour legislation. In respect of the national equality policy, the Committee notes that the Government again refers to the national gender policy. **Consequently, the Committee once again urges the Government, in collaboration with the employers' and workers' organizations, to take the necessary measures to: (i) include in the national legislation, particularly in the Labour Code, provisions defining and explicitly prohibiting direct and indirect discrimination based on at least all of the grounds listed in the Convention (race, colour, sex, religion, political opinion, national extraction and social origin) in employment and occupation, including at the time of recruitment; and (ii) formulate and implement an overall national equality policy which includes plans or programmes of action and specific measures to promote equality of opportunity and treatment irrespective of race, colour, religion, political opinion, national extraction or social origin. The Committee requests the Government to provide detailed information on all measures taken in this respect and to communicate a copy of the relevant texts adopted, including any revised gender policy. In the absence of a reply from the Government, the Committee again requests it to provide information on the application in practice of section 242 of the Penal Code, which punishes any refusal of access to employment on the basis of race, religion, sex and medical status, including the number of complaints on this basis, and to specify the authorities responsible for enforcing the application of this provision (labour inspectors or others).**

Articles 1(1)(a) and 3(c). *Discrimination based on sex. Legislation.* Noting that the Government reiterates its commitment to bringing all legislative and regulatory texts and texts derived from agreements into line with the provisions of the Convention, the Committee once again urges the Government to take specific measures to: (i) abrogate the provisions of section 223 of the Civil Code and of section 74(2) of Ordinance No. 81-02 which gives a husband the right to object to his wife having an occupation that is separate from that of her husband; and (ii) more generally, remove from the national legislation any provision that has the effect of nullifying or impairing equality of treatment for women in employment and occupation. The Committee requests the Government to provide information on any measures taken in this regard and on progress made in the reform of the Civil Code to which the Government refers in a previous report.

Article 5. *Special protection measures. Restrictions on women's employment.* The Committee notes the Government's indication that it has taken due note of the Committee's request that it review Order No. 16/MLTS of 27 May 1969 establishing a list of work prohibited for women. **In the absence of any change in this regard, the Committee can only reiterate its request to the Government to take steps to review Order No. 16/MLTS of 1969.**

The Committee is raising other matters in a request addressed directly to the Government.

Chad

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1966)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1(1)(a) of the Convention. *Grounds of discrimination.* The Committee notes with concern that the Labour Code has been awaiting adoption for many years. **The Committee can only hope that the Government will soon be in a position to report on the adoption of the new Labour Code and requests it to ensure that it contains provisions explicitly prohibiting any direct or indirect discrimination based, as a minimum, on**

all the grounds enumerated in Article 1(1)(a) of the Convention, including race, colour, national extraction and social origin, at all stages of employment and occupation. The Committee requests the Government to provide a copy of the Labour Code as soon as it has been adopted, and of any implementing texts with respect to non-discrimination and equality in employment and occupation.

Discrimination based on sex and equality of treatment between men and women. The Committee recalls that, in a previous comment, the Government acknowledged that section 9 of Ordinance No. 006/PR/84 of 1984, which gives the husband the right to object to his spouse's activities, is completely outdated and that it would take measures to repeal this provision, which no longer corresponds to the current situation. The Government also specified that occupational segregation between men and women is due, inter alia, to the high levels of illiteracy and social factors. The Committee previously requested the Government to take the necessary measures in this regard. However, it notes that the Government has confined itself to referring once again to articles 13, 14, 33, 38, 39 and 42 of the Constitution and section 369 of the Penal Code. ***The Committee therefore urges the Government to take the necessary measures to formally repeal section 9 of the Ordinance of 1984 and to combat actively stereotypes and prejudices concerning the vocational capacities and aspirations of men and women. The Committee also requests the Government to take measures to raise awareness among parents and the population as a whole about the importance of girls and boys attending and remaining in school, and to promote the access of girls and women to a broader range of training courses and occupations, particularly those that are traditionally occupied by men. The Committee requests the Government to provide information on any measures taken in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

China

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2006)

Previous comments: [observation](#) and [direct request](#)

The Committee notes the observations made by the International Trade Union Confederation (ITUC), received on 1 September and 7 October 2022. ***The Committee requests the Government to provide its comments thereon.***

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards (CAS) in June 2022 concerning the application of the Convention. The CAS deplored the use of all repressive measures against the Uyghur people, which has a discriminatory effect on their employment opportunities and treatment as a religious and ethnic minority in China, in addition to other violations of their fundamental rights. It expressed grave concern at the Government's efforts to impose "deradicalization" responsibilities on employers' and workers' organizations. The Conference Committee urged the Government to, in consultation with the social partners:

- immediately cease any discriminatory practices against the Uyghur population and any other ethnic minority groups, including internment or imprisonment on ethnic and religious grounds for deradicalization purposes;
- immediately cease the racial harassment of the Uyghur people, including physical, verbal or non-verbal conduct or other conduct based on their ethnicity and religion, which undermines their dignity and creates an intimidating, hostile or humiliating working environment;

- adopt national and regional policies with a view to eliminating all distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity and treatment in employment and occupation, particularly with regard to the Uyghur population;
- repeal provisions in the Xinjiang Uyghur Autonomous Region (Xinjiang) Regulation, and any other laws, regulations or other policies, that impose deradicalization duties on enterprises and trade unions that prevent enterprises and trade unions from playing their respective roles in promoting equality of opportunity and treatment in employment and occupation without discrimination;
- amend national and regional policies with a view to ensuring that the activities of vocational guidance, vocational training and placement services serve the purpose of assisting ethnic and religious minorities in the development and use of their capabilities for work in their own best interests and in accordance with their own aspirations;
- amend national and regional regulatory provisions with a view to reorienting the mandate of vocational training and education centres from political re-education based on administrative detention;
- bring the existing legal framework on sexual harassment in the workplace fully into line with the Convention and ensure that victims of sexual harassment have effective access to judicial mechanisms and legal remedies; and
- amend the Labour Law and Employment Promotion Law so as to bring this legislation fully into line with the Convention.

The CAS recommended that the Government accept an ILO technical advisory mission to allow the ILO to assess the situation with the support of the ITUC and the International Organisation of Employers (IOE). The CAS requested the Government to submit a report to the Committee of Experts by 1 September 2022 with information on the application of the Convention in law and practice, in consultation with the social partners.

In its concluding statement to the CAS and in its report, the Government considered the conclusions of the CAS to be groundless and biased, resolutely rejecting the accusations of repression of the Uyghurs in the conclusions as false and the existence of discrimination and harassment of the Uyghurs as unfounded.

While the Government has indicated that it will give serious consideration to some of the comments made in the CAS and welcomed technical consultations to facilitate further understanding of the actual implementation of the Convention in China, it has not confirmed its acceptance of an ILO technical advisory mission to allow the ILO to assess the situation with the support of the ITUC and the IOE. The Committee notes that the Government requested the Office to hold technical discussions on the application of the Convention before the end of 2022. In this respect, a schedule of work has been established, and the first meeting was held in November.

Articles 1(1)(a), 2 and 3 of the Convention. Definition and prohibition of discrimination in employment and occupation. Prohibited grounds of discrimination. National Equality Policy. Legislation. The Committee notes that, in its written statement to the CAS, the Government states that China's laws, regulations and practices are fully in line with the principles of the Convention and that Xinjiang's subnational administrative regulations, departmental rules, and normative documents are all in line with the principles of national laws and conform to the principles and requirements of the Convention. In respect of vocational training, it indicates that the Labour Law (section 3) guarantees workers equal rights to training in vocational skills, while the revised Vocational Education Law (2022) provides that citizens have the right to receive vocational education in accordance with the law (section 5); that the State practices a system whereby workers receive the necessary vocational education prior to employment or assignment (section 11); and that the State supports the development of vocational education in former

revolutionary base areas, ethnic minority areas, remote areas and underdeveloped areas, guaranteeing equal rights for women (section 10). In respect of other aspects of access to employment, the Government explains that China's Regulations on Employment Services and Employment Management guarantee workers equal employment rights in accordance with the law (section 4); that recruitment announcements by employing units must avoid discriminatory language (section 20); and that public employment service agencies are prohibited from releasing employment information that contains discriminatory content (section 58).

The Committee recalls that legal provisions providing for equality of opportunity and treatment, although important, have generally not proven to be sufficient to address specific cases of discrimination in employment and occupation. A more detailed legislative framework is also required. The Committee repeats its previous comments that there is a need for comprehensive legislation containing explicit provisions defining and prohibiting direct and indirect discrimination on at least all of the grounds set out in the Convention, and in all of the aspects of employment and occupation as set out in Article 1(3) of the Convention, in order to ensure the full application of the Convention.

The Committee therefore again urges the Government to include a clear and comprehensive definition of discrimination (both direct and indirect) in its labour legislation. With respect to vocational education, it asks the Government to clarify how compliance with the equal rights provisions in the Labour Law of 1994 and the revised Vocational Education Law (2022) is secured. With respect to the anti-discrimination legal provisions in force, the Committee also asks the Government to confirm that the Employment Promotion Law of 2007 prohibits discrimination based on colour, national extraction, social origin and political opinion even if such grounds are not explicitly mentioned, and to provide judicial interpretations or decisions to that effect.

Articles 1(1)(a), 3 and 4. Activities prejudicial to the security of the State. Allegations of discrimination based on race, religion, national extraction and social origin affecting ethnic and religious minorities in Xinjiang. Further to its previous comments and to the conclusions and grave concern expressed by the CAS, the Committee notes the call by the United Nations Committee on the Elimination of Racial Discrimination (CERD) on 24 November 2022 on China to immediately investigate all allegations of human rights violations in Xinjiang; to immediately release all individuals arbitrarily deprived of their liberty in Xinjiang, whether in vocational education and training centres (VETCs) or other detention facilities, and to provide relatives of those detained or disappeared with detailed information about their status and well-being. In this respect, and while being aware of its strong rejection by the Government, the Committee notes the finding of the UN High Commissioner for Human Rights in August 2022 that it is reasonable to conclude that a pattern of large-scale arbitrary detention occurred in vocational education and training facilities, at least during 2017 to 2019, affecting a significant proportion of the Uyghur and other predominantly Muslim ethnic minority community in Xinjiang (Office of the United Nations High Commissioner for Human Rights (OHCHR), Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, 31 August 2022).

The Government indicates that in response to the needs of workers of all ethnic groups, Xinjiang authorities have taken measures for the implementation of the Employment Promotion Law of the People's Republic of China in Xinjiang. The Xinjiang 14th Five-Year Plan (2021–2025) for Employment Promotion provides a solid institutional guarantee for economic development as well as support for flexible employment and for groups facing difficulties in finding employment, so that workers can fully enjoy equal rights and opportunities in employment and occupation. Employment of all ethnic groups in Xinjiang increased by 19.5 per cent between 2014 and 2020. Women from Uyghur and other ethnic minorities formed the vast majority of newly employed women, thus realizing the transition from having low education and skills to gaining employment, improved living standards and economic autonomy.

The Government further reports that deradicalization measures by the Chinese Government target a very small number of people and intend to protect the legitimate rights and interests of people

of all ethnic groups, including the vast majority of Uyghur people. The Xinjiang government had taken these deradicalization measures under special circumstances and in accordance with the law, with the objective of preventing acts of terror and educating and saving a small number of people under the influence of religious extremism or guilty of minor offences or violations of the law. Education and training centres established in accordance with the law in Xinjiang combated terrorism and pursued deradicalization in essentially the same way as countries around the world administered deradicalization centres, community corrections, transformation and disengagement programmes. The basic human rights of people of all ethnic groups, such as the right to life, health and development, had been protected to the greatest extent possible, and the sense of security of the people of all ethnic groups had been greatly improved as no violent terrorist incidents had occurred for six consecutive years. Allegations of political detention were a malicious smear.

The Government indicates that deradicalization efforts are aimed at promoting the reintegration of people who have engaged in extremist behaviour and that the role of trade unions and enterprises in this regard includes legal advocacy; educating and guiding workers to abide by the law; maintaining unity and harmony; opposing hate and extremist speech and opposing engaging in unlawful activity.

The Committee takes due note of the information provided by the Government as well as policy and regulatory directions set out in official documents. In respect of Xinjiang's 14th Five-Year Plan (2021–2025), it also notes that the Plan seeks to systematize the rule of law in countering terrorism and maintaining stability, with a view to maximizing unity and cohesion among the people and relying on ideological education, legal awareness-raising, psychological counselling and conflict resolution.

Further to the theme of promoting ethnic harmony in Xinjiang, the Committee also notes the Government's white paper on "Historical Matters Concerning Xinjiang" (2019), which expresses the view that religions could only be accommodated within Chinese society by adapting themselves to the Chinese context. Secular, modern and civilized ways of life had to be encouraged and backward and outdated conventions and customs abandoned. Only the fusion of religious doctrines with Chinese culture could lead religions, including Islam, onto the Chinese path of development. In that context, the Committee notes the Government's five-year plans for the sinification of Islam, Christianity and Catholicism (all for the period 2018–22) stating objectives such as "deepening patriotism, expressing faith using Chinese culture and strengthening the theological foundation of sinification".

The Committee further notes that the Xinjiang Regulation on Deradicalization (XRD) contains an open-ended list of "primary expressions of radicalization", including "wearing, or compelling others to wear, burqas with face coverings", "spreading religious fanaticism through irregular beards or name selection", and "generalizing the concept of halal".

Having considered the information at its disposal, the Committee recalls its long-held view that the elimination of distinctions in employment, occupation and education depends on a general context of equality of opportunity and treatment without which the full application of the Convention remains illusory. This general context will depend on respect for the rule of law and the development of a climate of tolerance which fully respects voluntary self-identification and actively supports the resilience of ethnic, religious and linguistic identity in the face of a dominant culture, rather than seeking to assimilate such identity into a homogeneous society. Without such general context, the coexistence between minorities and the majority, or even among the various minorities themselves, can be fraught with conflict.

The Committee is bound to note that the policy orientations repeatedly expressed by the Government in recent white papers, its plans for the sinification of Islam and other religions and regulatory documents lend credibility to allegations of its active pursuit of a policy seeking to assimilate ethnic and religious minorities within the dominant ethnic group thus compromising the success of a policy to effectively eliminate discrimination in employment and occupation. The fundamental objective of such policy, enshrined in the ILO Constitution, must remain that "all human beings, irrespective of

race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity”.

As regards the policy's orientation towards deradicalization and counter-terrorism, the Committee recalls that *Article 4* of the Convention permits differential treatment of an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State, provided that the individual concerned shall have the right to appeal to a competent body established in accordance with national practice. The Committee is, therefore, of the view that ensuring a counter-terrorism response compliant with the Convention requires a focus on individuals who are justifiably suspected of, or engaged in, activities prejudicial to the security of the State while avoiding stereotypes potentially casting groups identified by ethnic and religious traits in a negative light. A compliant response would not permit the use of labour or vocational education and training as a means of altering the political opinion and religious practice of individuals or groups protected by the Convention in the absence of violent conduct or conduct demonstrably aimed at propagating violence. While noting the Government's assurances that its deradicalization efforts affect a very small number of people, the Committee notes with **regret** not being offered any further details to assess the scope and the impact of such efforts. The open-ended definition of extremism in the XRD is supported by indicators (“primary expressions of radicalization”) that might otherwise be construed as matters of personal choice in relation to religious practice. Such a regulatory approach to deradicalization may amount to racial and religious profiling and give rise to a focus on ethnic and religious minorities through the lens of “extremism”. The extensive digital and personal surveillance apparatus in Xinjiang and the regulatory potential for administrative detention of suspected extremists, whether for the purpose of re-education or correction of minor offences that do not constitute a crime, further create a discriminatory climate in which the stated equal rights and opportunities in employment and occupation of ethnic and religious minorities cannot be effectively promoted or fully realized.

In respect of the role of trade unions and employers' organizations, the Committee recalls that the Convention requires the Government to seek the cooperation of employers' and workers' organizations and other appropriate bodies but that the purpose of such cooperation, rather than enlisting social partners in public deradicalization efforts should be to promote the acceptance and observance of a policy designed to promote equality of opportunity and treatment in respect of employment and occupation. Guidance in respect of the cooperation to be sought may be found in the Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111). Paragraph 2(d) of the Recommendation recommends organizations to abstain from obstructing or interfering with employers in their pursuit of the principle of non-discrimination, while encouraging employers' and workers' organizations not to practise or countenance discrimination in respect of admission, retention of membership or participation in their affairs.

Having duly considered the information provided by the Government, the discussions in the Conference Committee, ITUC observations and the findings of UN bodies, the Committee must reiterate its deep concern in respect of the serious allegations of discrimination against ethnic and religious minorities in Xinjiang, which appears to be based on policy directions expressed in numerous national and regional policy and regulatory documents. The Committee therefore once again urges the Government to: (i) review its national and regional policies with a view to eliminating all distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity and treatment in employment and occupation; (ii) repeal provisions in the Xinjiang Uyghur Autonomous Region (Xinjiang) Regulation that impose deradicalization obligations on enterprises and trade unions and prevent enterprises and trade unions from playing their respective roles in promoting equality of opportunity and treatment in employment and occupation without discrimination based on race, national extraction, religion or political opinion; (iii) revise national and regional policies with a view to ensuring that the activities of vocational guidance, vocational training and placement services serve the purpose of assisting ethnic and religious minorities in the development and use of their capabilities

for work in their own best interests and in accordance with their own aspirations, account being taken of the needs of society; (iv) amend national and regional regulatory provisions with a view to reorienting the mandate of vocational training and education centres from deradicalization based on ethnic and religious stereotypes and ideological education based on administrative detention towards the purpose set out in (iii); (v) provide detailed information on the allegedly small number of persons affected by the Government's deradicalization policy; the conditions under which they are subject to administrative detention and any programmes related to training, employment or occupation; and the conditions under which they are released as it affects their access to the labour market; (vi) provide information on the measures taken to ensure observance of the policy to promote equality of opportunity and treatment in vocational training activities carried out in Xinjiang's vocational training and education centres; and (vii) provide information on the measures taken to ensure observance of the policy to promote equality of opportunity and treatment for the Uyghurs and other ethnic minority groups when seeking to access employment outside the Xinjiang Autonomous Region.

Articles 1(1)(a) and 3(c). *Discrimination based on sex. Sexual harassment.* In response to the Committee's previous comments, the Government expresses the view that victims of sexual harassment can effectively obtain legal support and relief through judicial channels. Section 1010 of the Civil Code identifies the elements constituting sexual harassment; establishes civil liability for sexual harassment; and requires organizations to set up preventive mechanisms and provide timely remedies. The All-China Federation of Trade Unions and the China Enterprise Confederation jointly developed a Guidebook for Eliminating Sexual Harassment in the Workplace with technical assistance from the Office.

In the course of the CAS discussion, it was acknowledged that the new Civil Code covers sexual harassment of both men and women. Concern was expressed, however, that the law did not fully define sexual harassment; failed to prohibit both quid pro quo and hostile work environment sexual harassment in all aspects of employment and occupation, including vocational training and job placement; and that equal access to legal remedies, including for ethnic and religious minorities, was unclear in the absence of available data. Figures cited in the course of the discussion suggest that because alleged victims bear the burden of proof, only a small percentage of the lawsuits filed result in a conviction of the alleged perpetrator and rarely in compensation for the victim.

The Committee welcomes the protection against sexual harassment which section 1010 seeks to provide to both men and women. Experience suggests that the burden of proving discrimination, including sexual harassment, is often harder to meet, to the point of constituting an insurmountable obstacle to establishing liability and ensuring an appropriate remedy. This would be particularly so in relationships marked by an imbalance of power and if there are no witnesses, which is often the case. To prevent dissuading victims from seeking redress and correct a situation that could otherwise result in inequality, the Committee has consistently recommended considering procedural measures such as shifting or reversing the burden of proof. The Committee notes in this regard the Violence and Harassment Recommendation, 2019 (No. 206), which encourages complaint and dispute resolution mechanisms for gender-based violence and harassment to shift the burden of proof in proceedings other than criminal proceedings. The Committee is also of the view that a procedural requirement for the alleged victim to present physical evidence corroborating oral testimony would not be appropriate in cases of sexual harassment that do not amount to physical assault or do not imply physical contact.

The Committee asks the Government: (i) to include a clear and comprehensive definition of sexual harassment to ensure that it covers both quid pro quo and hostile work environment harassment; offers protection in vocational education, vocational training, access to employment, conditions of employment and performing work in any occupation; and protects workers outside formal employment relationships; (ii) to consider making procedural adjustments ensuring easy access to appropriate and effective remedies and safe, fair and effective reporting and dispute resolution mechanisms and procedures in sexual harassment cases; and (iii) to continue to provide information on any cases of sexual harassment dealt with by the courts and the competent authorities, including

on their outcome (sanctions imposed, court cases won as a proportion of lawsuits filed and remedies granted).

The Committee understands that the Law on the Protection of the Rights and Interests of Women was amended on 30 October 2022. Noting that the amended Law contains several provisions relevant to equality of opportunity and treatment for men and women, including sexual harassment, the Committee intends to examine the Law on the next occasion and asks the Government to provide information on its application.

Equality of opportunity and treatment for ethnic and religious minorities, including in the civil service. In its previous comments, the Committee had noted the continuation of workforce capacity-building in ethnic areas (including Inner Mongolia, Guangxi, Yunnan, Qinghai, Tibet, Guizhou, Ningxia, and Xinjiang) through special training programmes for ethnic talents, the recruitment of ethnic civil servants nationwide and capacity-building of civil servants in ethnic areas, including their active engagement in bilingual programmes.

In its statement to the CAS, the Government indicated that it was giving full play to the role of markets in regulating employment and promoting the free movement of workers between regions, industries and enterprises, causing urban employment to expand by 470,000 jobs annually between 2014 and 2020. It provided an example of a worker who had successfully challenged discrimination by his employer based on geographical origin winning compensation for emotional distress as well as an oral and written apology by his employer.

The Committee asks the Government to continue to provide information on the measures taken, and their results, to promote equality of opportunity and treatment for ethnic and religious minorities within China, including information on the current employment situation of various ethnic and religious minorities inside and outside the autonomous regions as well as employment data disaggregated by sex and ethnicity in the civil service.

The Committee is raising other matters in a request addressed directly to the Government.

Colombia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1963)

Previous comment

The Committee notes the observations of the National Employers Association of Colombia (ANDI), and those of the Confederation of Workers of Colombia (CTC), the Single Confederation of Workers of Colombia (CUT) and the General Confederation of Workers (CGT), communicated with the Government's 2022 report. The Committee also notes the observations of the International Organisation of Employers (IOE), of 31 August 2022, in which it refers to the current legislative framework and various judicial decisions in the country.

Articles 1–4 of the Convention. Assessing and addressing the gender pay gap and its underlying causes, including occupational segregation. The Committee welcomes the statistical data provided by the Government in its 2018 and 2020 reports, which show that: (1) the gender income gap fell from 17.2 per cent in 2017 to 15.4 per cent in 2019, and to 8.7 per cent in 2021; (2) between 2015 and 2021, the economic activities in which most employed women work have not changed, and include commerce, healthcare and education; and (3) according to data for the years 2014 to 2021, the higher the educational level of women, the higher their labour market integration and the lower the wage gap. It further notes the Government's explanation in its report that the gender wage gap must be understood as a multi-causal phenomenon that is not exclusively reduced to socio-economic variables or the work itself and is closely related to historical exclusions suffered by women in the past. The Committee notes

that, in their observations the CGT, CTC and CUT provide various types of statistical data and indicate that: (1) in the context of the COVID-19 pandemic, women with the lowest levels of income from work were those most affected by the loss of their jobs; and (2) rural and migrant women, and those over 55 years of age, with lower educational levels, those in free relationships, or who are separated or divorced, living with minors in the household and those who recognize themselves as being indigenous are most affected by the wage gap.

With reference to measures to address the pay gap, the Committee notes the information provided by the Government on: (1) the Gender Parity Initiative, which seeks to increase the participation of women in the labour market and in leadership roles, and to reduce the wage gap; and (2) the preparation, within the context of the cooperation between Latin America and the European Union (EUROSOCIAL+), of an analytical study of gender wage gaps and of a technical good practice tool for gender equity in the workplace, to reduce wage gaps and gender bias. The CGT, CTC and CUT indicate in their observations that, since the adoption of Act No. 1496 in 2011, it is not known whether affirmative action has been taken in this regard with a positive outcome. The Committee also notes that the Government, and the IOE in its observations, recall the implementation of the EQUIPARES certification programme, which requires enterprises to establish objective methods for the determination of remuneration. ***The Committee requests the Government to take measures to reduce the persistent occupational segregation between men and women, and in particular to broaden the labour market opportunities of women and their capacity to progress and obtain promotion in their respective occupations. The Committee also requests the Government to provide detailed information on any measures adopted and on their impact, including measures adopted within the context of the Gender Parity Initiative and EUROSOCIAL+ cooperation. Noting the significant reduction of the gender income gap in 2021 as well as the economic context due to the pandemic, in particular the loss of jobs by women, the Committee requests the Government to continue to provide data on the evolution of the gender pay gap over the years and to provide a detailed analysis of such data, taking into account changes in the labour force.***

Articles 1(b) and 2(2)(a). Equal remuneration for work of equal value. Legislation. With reference to the amendment of Act No. 1496 of 2011, the terms of which are more restrictive than the principle of the Convention, the Committee notes the Government's indication that it is working to amend the Act before adopting implementing regulations, with a view to facilitating understanding and the application of the principle of equal remuneration for work of equal value. ***The Committee hopes that the Government will take the necessary measures as soon as possible to make progress with the amendment of Act No. 1496 with a view to giving full legislative expression to the principle of the Convention.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1969)

The Committee notes the observations of the National Employers Association of Colombia (ANDI), and those of the Confederation of Workers of Colombia (CTC), the Single Confederation of Workers of Colombia (CUT) and the General Confederation of Workers (CGT), communicated with the Government's 2022 report. The Committee also notes the observations of the International Organisation of Employers (IOE), of 31 August 2022, relating to the current legislative framework on gender equality at work and policies to promote youth employment.

Article 1(1)(a) of the Convention. Discrimination on the basis of sex. Sexual harassment. The Committee observes that, according to the Government's indications in its 2018 report, the Strategic Plan for the Prevention of Labour and Sexual Harassment at Work has been developed and implemented, certain elements of which had already been brought to the attention of the Committee, such as the survey of perceptions of sexual harassment, a protocol for action agreed with the Office of the Public Prosecutor

and the training of labour inspectors. The Committee also notes the adoption of capacity-building and awareness-raising measures for enterprises and other actors in the world of work, including through the *Equipares* equality label. In addition, the Committee notes the reference by the Government in its 2022 report to the Gender Equality Recognition Programme (PRIG *Equipares Rural*) intended for associations and cooperatives in the rural sector, the objectives of which include the promotion of a working environment free from discrimination and violence. However, the Committee **regrets** to note that section 3 of Act No. 1010 of 2006 on labour harassment, which provides for mitigating circumstances, is still in force. The Committee also observes that: (1) the information provided by the Government on the number of complaints of sexual harassment does not indicate the number of cases of sexual harassment; (2) Act No. 1010 defines ill-treatment at work as a form of workplace abuse which includes any act of violence against sexual freedom, but does not contain a clear and explicit definition of sexual harassment (either *quid pro quo* or hostile working environment harassment); and (3) in section 210-A of the Penal Code, sexual harassment is described as behaviour through which a person, taking advantage, *inter alia*, of their position at work, harasses, pursues, bullies or stalks another person for unwanted sexual purposes for the benefit of themselves or another person. ***The Committee requests the Government to: (i) indicate the manner in which Act No. 1010 of 2006 guarantees in practice adequate protection against sexual harassment, including both *quid pro quo* and a hostile working environment; (ii) if such protection does not exist, to take measures to provide explicitly for specific protection; (iii) report the penalties imposed under the Act and the measures envisaged to ensure that such penalties are effective and dissuasive; and (iv) provide information on the number of cases of work-related sexual harassment examined by the labour inspection services and by administrative and judicial bodies, the penalties imposed and the compensation granted.***

The Committee is raising other matters in a request addressed directly to the Government.

Congo

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1999)

Previous comment

The Committee notes with **deep concern** that the Government's report, due since 2018, has not been received. In light of its urgent appeal launched to the Government in 2021, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

Articles 1 and 2(2)(a) of the Convention. Equal remuneration for men and women for work of equal value. Legislation. For a number of years, the Committee has been drawing the Government's attention to the need to amend sections 56(7) and 80(1) of the Labour Code, which limit the application of the principle of equal remuneration to "equal work" (section 56(7)) or "equal working conditions, qualifications and output" (section 80(1)), and do not fully reflect the concept of "work of equal value" set out in the Convention. It previously noted the Government's repeated statement that amendments of sections 56(7) and 80(1) of the Labour Code were foreseen and requested the Government to take the necessary steps to ensure that the principle set out in the Convention was incorporated in the Labour Code. The Committee notes that a preliminary draft Labour Code is being prepared and was transmitted to the ILO in February 2022. It also notes, from the information available on the website of the Ministry of Public Service, Labour and Social Security, that it is expected that this preliminary draft Labour Code would be soon submitted to the National Consultative Labour Commission for its prior opinion, before being sent to the General Secretariat of the Government for its approval. The Committee notes that section 20 of the preliminary draft Labour Code provides that "no clause of an employment contract may reserve the benefit of a measure to a worker in consideration of his or her sex, nor unequal remuneration for the same work or work of equal value". The Committee welcomes the explicit

reference made to the concept of “work of equal value” in the preliminary draft Labour Code. It observes, however, that section 20, which refers to “same work or work of equal value”, read together with sections 195(10) and 246 of the preliminary draft Labour Code, which only refer to “equal work” or “equal working conditions, qualifications and output”, may lead to a confusing and restrictive interpretation of the concept of “work of equal value”. The Committee recalls that this concept permits a broad scope of comparison that includes, but is not limited to, equal remuneration for “equal”, “the same” or “similar” work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value. It further recalls that comparing the relative value of jobs in occupations which may involve different types of skills, efforts, responsibilities or working conditions, but which are nevertheless of equal value overall, is essential in order to eliminate pay discrimination resulting from the failure to recognize the value of work performed by women and men (see the [2012 General Survey on the fundamental Conventions](#), paragraphs 672–675). **Recalling that, in its Decent Work Country Programme (DWCP) for 2018–22, the Government defines as a priority action to bring its labour legislation into line with international labour standards, the Committee requests the Government to:** (i) **take the necessary steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value, in particular by aligning sections 195(10) and 246 of the preliminary draft Labour Code with section 20 which provides for equal remuneration for the “same work or work of equal value”;** and (ii) **consider the possibility of including in the preliminary draft Labour Code an explicit reference to the use of appropriate techniques for objective job evaluation to determine the value of jobs, comparing factors such as skills and qualifications, effort, responsibilities and working conditions.**

The Committee requests the Government to provide information on: (i) any progress made in that regard; (ii) any proactive measures taken to raise awareness of the principle of “equal remuneration for men and women for work of equal value” among workers, employers and their organizations, as well as among law enforcement officials; and (iii) the number, nature and outcome of any cases of pay inequality between men and women dealt with by the labour inspectors, the courts or any other competent authority.

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1999)

The Committee notes with **deep concern** that the Government’s report, which has been due since 2018, has not been received. In light of the urgent appeal that it made to the Government in 2021, the Committee is proceeding with the examination of the application of the Convention on the basis of the information at its disposal.

Articles 1 to 3 of the Convention. Protection against discrimination. Legislation. For many years, the Committee has been emphasizing the shortcomings of the Labour Code and the General Civil Service Regulations regarding the protection of workers against discrimination, as these texts do not cover all of the grounds of discrimination and all of the aspects of employment and occupation set out in the Convention. The Committee notes the adoption of the new Constitution on 25 October 2015, articles 15 and 17 of which provide, respectively, that “no one shall be favoured or disadvantaged by reason of their family or ethnic origin, social condition, political, religious, philosophical or other convictions”, which therefore reduces the previous list of grounds of discrimination prohibited by the Constitution, and that “women shall have the same rights as men”. It observes that the previous Constitution (of 20 January 2002) explicitly prohibited “any discrimination on grounds of origin, social or material situation, racial, ethnic or departmental background, sex, education, language, religion, philosophy or place of residence” and that it also provided that “women shall have the same rights as men”. The Committee also notes that a preliminary draft of the Labour Code has been prepared, that it is currently

under examination and that it was sent to the ILO in February 2022. The preliminary draft of the Labour Code sent to the ILO provides that “any discrimination or exclusion based on grounds related to race, colour, sex, trade union membership, religion, ethnic origin, political or mutual opinions, family name, place of residence, state of health or disability, family situation or pregnancy, nationality or social origin, and physical appearance, are prejudicial to the principles of the labour legislation” and that “no employer may therefore make the recruitment of personnel subject to conditions relating to these circumstances”. The Committee welcomes these provisions, which extend the list of prohibited grounds of discrimination and therefore constitute real progress in relation to the provisions of the Labour Code that is currently in force. However, it notes certain gaps, such as the absence of a definition and explicit prohibition of discrimination (both direct and indirect), the absence of a reference to discrimination on grounds of “national extraction” (which covers distinctions based on the place of birth and foreign extraction or origin of persons) and of a scope of application of the anti-discriminatory provisions not explicitly covering employment and occupation, as set out in *Article 1(3)* of the Convention.

With reference to the public sector, the Committee recalls that the General Public Service Regulations prohibit any distinction between men and women in relation to their general application and any discrimination on the basis of family situation in relation to access to employment (sections 200 and 201). In this regard, it notes the indication on the website of the Ministry of the Civil Service, Labour and Social Security of the Republic of the Congo that “progress towards a new legal framework for the public service, to take into account the many changes that have transformed the public sphere, is a major concern for the Government”. It is also indicated that “a preliminary draft of the Bill issuing the General Public Service Regulations was validated by the National Labour Advisory Commission at its ordinary session on 9 October 2020”. ***In light of the above, the Committee urges the Government to ensure that the future Labour Code and General Public Service Regulations, which are currently being revised, contain provisions defining and explicitly prohibiting any direct or indirect discrimination on, as a minimum, the seven grounds enumerated in the Convention (namely, race, colour, sex, religion, political opinion, national extraction and social origin), as well as on any other grounds that the Government considers it appropriate to include, in all aspects of employment and occupation, that is not only in relation to access to vocational training, employment and the various occupations, but also all terms and conditions of employment (working time, remuneration, conditions governing promotion and termination of employment, and so on). The Committee requests the Government to provide information on the progress made in this legislative process and in the adoption of the texts in question and hopes that it will soon be able to report progress. The Government is requested to provide copies of the texts when they have been adopted.***

Article 1(1)(a). Discrimination based on sex. Sexual harassment. The Committee recalls that in its previous report the Government indicated that the preliminary draft of the Bill to amend and supplement certain provisions of the Labour Code contained measures to combat sexual harassment. The Committee notes that, in contrast with the current Labour Code, the preliminary draft of the Labour Code recently provided to the Office contains provisions explicitly prohibiting sexual harassment, which is defined as “repeated remarks or behaviour with a sexual connotation with the real or apparent aim of obtaining an act of a sexual nature, whether for the offender or for another person”. The preliminary draft text also provides that employers shall take measures to prevent, inter alia, sexual harassment. The Committee welcomes these provisions, which constitute genuine progress in preventing and combating sexual harassment. However, it observes that these provisions only cover quid pro quo sexual harassment and require “repeated remarks or behaviour”, and that the aspect of a hostile working environment is covered by the definition of moral harassment. The Committee considers that these limitations could have the effect of limiting protection against sexual harassment. The Committee also notes that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) recommends the Congo to continue to “strengthen the efforts of the National Statistical Institute to ensure an effective national system for the collection of data,

disaggregated by age and relationship of the victim with the offender, on gender-based violence and cases of sexual harassment, both in school and at work, against women and girls" (CEDAW/C/COG/CO/7, 14 November 2018, paragraph 27). Lastly, the Committee notes the Government's indication, in its national report to the United Nations Human Rights Council in the context of the universal periodic review, that the provisions of the draft Criminal Code cover, among others, the criminalization of trespass on domestic premises, violations of the confidentiality of correspondence and sexual harassment (A/HRC/WG.6/31/COG/1, 14 September 2018, paragraph 17). **The Committee requests the Government to ensure that the future Labour Code contains provisions that: (i) define and explicitly prohibit both *quid pro quo* and hostile, intimidating or offensive working environment sexual harassment; (ii) do not require remarks or behaviour to be repeated to constitute sexual harassment; and (iii) envisage the adoption of prevention measures by employers and protection against reprisals for victims and penalties for offenders. The Committee also requests the Government to: (i) take measures at the national and local levels, in collaboration with workers' and employers' organizations, to prevent and eliminate sexual harassment, such as awareness-raising measures for employers, workers and education personnel, as well as labour inspectors, lawyers and judges; and (ii) establish information and complaint procedures that take into account the sensitive nature of the subject with a view to bringing an end to these practices and enabling victims to assert their rights without losing their jobs.**

The Committee is raising other matters in a request addressed directly to the Government.

Costa Rica

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1960)

Previous comment

The Committee notes the observations of the Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP), communicated with the Government report.

Articles 1(b) and 2(2)(a) of the Convention. Equal remuneration for men and women for work of equal value. Legislation. The Committee notes the Government's indication in its report that: (1) Act No. 9677 of 2019 amends Act No. 7142 on promoting social equality for women, and that section 14, as amended, establishes that "[w]omen shall have the right to equal wages to men, in both the private and public sectors, for work of equal value for the same employer, whether it concerns the same position or different positions of equal value, or functions that are equivalent or equivalent to a reasonable degree"; (2) section 167 of the Labour Code and Act No. 9677 are understood to be interrelated and complementary, and the amendment of section 167 of the Labour Code is currently before the Legislative Assembly (draft Act No. 22522) for examination. The Committee notes the observations of the UCCAEP, that the amendment proposed in draft Act No. 22522 could result in legal uncertainty by failing to establish objective parameters for determining whether the tasks and functions performed are of equal value. While welcoming the Government's efforts, the Committee wishes to recall that the principle of the Convention is not limited to comparisons between men and women in the same establishment or enterprise but allows for a much broader comparison to be made between jobs performed by men and women in different places or enterprises or for different employers (2012 General Survey on the fundamental Conventions, paragraph 697). **The Committee requests the Government to take measures to ensure that the principle of equal remuneration for work of equal value allows comparison between work performed for different employers. It further asks the Government to report on: (i) the amendment process for section 167 of the Labour Code; and (ii) how it envisages the process of objective evaluation of jobs in different sectors for the effective application of the principle of the Convention.**

Articles 1–4. Gender pay gap and occupational segregation. The Committee notes the information provided by the Government, that: (1) Costa Rica has joined the Equal Pay International Coalition (EPIC), and within that framework has requested ILO technical assistance to establish a method to measure the pay gap; (2) Act No. 9677 created the Inter-institutional Commission on Wage Equality for Men and Women and provides for the incorporation of the wage equality indicator into the National Statistics and Census Institute labour market studies in order to periodically evaluate the reasons for the wage gap between men and women and establish appropriate measures; (3) the gender perspective will be included in the labour market studies used to define occupational profiles, in order to classify the latter and place them correctly within the structure of the Decree on Minimum Wages; (4) the Wages Council applied additional increments to the minimum wage for women domestic workers, compared with that paid for unskilled workers, reducing the gap between the minimum wage paid to both groups from 31.92 per cent in 2014 to 24.23 per cent in 2022; (5) the Gender Equality Label is still functioning. The Committee also notes the observations of the UCCAEP that the Gender Equality Labels are burdensome, especially for micro, small and medium-sized enterprises. ***The Committee requests the Government to continue providing information on the measures adopted to reduce the pay gap between men and women, and to provide statistical information making possible an evaluation of progress achieved. The Committee also requests information on the specific measures adopted or envisaged to address occupational segregation.***

The Committee recalls that, in its previous observation, it had noted the Government's indication that the National Wage Council had agreed on a tripartite basis to amend the proposed list of minimum wages to incorporate inclusive terminology and a gender focus, without confusing activities with occupations. It observes however that the list of minimum wages for 2022 still maintains gender stereotypes by using the denomination of occupations with gender connotations (for instance, the Spanish terms "cerrajero" (locksmith), "conductor" (driver), "operario en construcción" (construction worker), "limpiador de piscinas" (swimming pool cleaner), "costurera" (tailor), "empleada doméstica" (domestic worker) and "secretaria" (secretary)). ***The Committee therefore once again encourages the Government to amend the denomination of occupations and employment in the list of minimum wages to eliminate gender connotations and use gender-neutral terminology.***

Application in practice. The Committee notes the information provided by the Government on the number of cases of wage discrimination identified by the National Directorate of Labour Inspection (DNI), disaggregated by region and sector. The Government also highlights certain measures to strengthen the capacity of the inspection service, such as: (1) the elaboration of inspection guidelines including a gender focus; (2) the inclusion of 18 gender-related violations in the Catalogue of Violations; and (3) the training of a team of women inspectors specialized in gender issues. The Committee also notes the draft Act to amend section 69(a) of the Labour Code (file No. 21170), which seeks to place an obligation on employers to report on wage gaps between men and women; and provides penalties for wage discrimination based on gender. ***The Committee requests the Government to provide information on: (i) the manner in which the gender-focused tools adopted address the principle of equal remuneration for men and women for work of equal value; and (ii) the cases identified and complaints received of wage discrimination, as well as any penalties imposed, and remedies granted.***

Côte d'Ivoire

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

[Previous comment](#)

Articles 1 and 2 of the Convention. Protection against discrimination and promotion of equality. Public service. The Committee recalls that section 14(1) of Act No. 92-570 of 11 September 1992 issuing the

General Public Service Regulations, the reform of which, it noted, was in progress, prohibits any distinction being made between men and women only during recruitment and, under section 14(2), establishes that “specific arrangements may be made, on account of physical fitness requirements or constraints inherent in certain functions ... to reserve access [to the public service] for candidates of one or other sex”. The Committee notes that, according to the information available on the Government website, the Council of Ministers adopted, on 9 November 2022, a bill issuing general public service regulations. **The Committee firmly hopes that the Bill issuing general public service regulations will include provisions that: (i) define and prohibit any direct or indirect discrimination made at least on the basis of race, colour, sex, religion, political opinion, national extraction and social origin, at any stage of employment (including in the conditions of employment); and (ii) limit the cases of access reserved for one or the other sex to the conditions inherent to the position in question. The Committee requests the Government to ensure that equality of opportunity and treatment without any distinction on the basis of the aforementioned grounds is one of the specific objectives of the public service reform, and to implement appropriate mechanisms for the prevention of discrimination and the handling of complaints. The Government is requested to provide a copy of the regulations as soon as they enter into force.**

Article 1(1)(a). Private sector. Prohibited grounds of discrimination. Legislation. Further to its previous comments, the Committee welcomes the adoption of Act No. 2019-574 of 26 June 2019 on the Criminal Code, and Act No. 2021-893 of 21 December 2021, which amends, inter alia, sections 226, 227 and 228 of the Criminal Code. Section 226, which also defines racism, xenophobia and tribalism, defines discrimination as “any distinction, exclusion, restriction or preference based on, inter alia, national or ethnic origin, race, colour, descent, sex, marital status, pregnancy, physical appearance, vulnerability resulting from an apparent or known economic situation, surname, place of residence, state of health, disability, morals, age, political, religious or philosophical opinions, or trade union activities, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life”. Section 227 establishes the penalties applicable in cases of discrimination (a prison sentence of one to two years, and a fine of between 500,000 and 2,000,000 CFA francs (XOF)) and, more specifically, aggravated penalties in cases of discrimination such as: (1) “hindering the normal exercise of any economic activity”; (2) “refusing to hire, sanction or dismiss a person”; (3) “making an offer of employment, an application for an internship or a period of work experience in an enterprise subject to a condition based on one of the [discrimination criteria]”; and (4) “refusing to accept a person for one of the internships provided for by the Labour Code”. Lastly, section 228 provides for all possible exceptions (such as measures concerning foreign nationals, positive measures and essential and specific professional requirements).

The Committee observes, however, that criminal provisions are not completely adequate in discrimination cases because, inter alia, they do not always provide a remedy to the victim and are very unlikely to cover all forms of conduct that amount to sexual harassment. It notes that the Government has not amended section 4 of the Labour Code, which lists the grounds that an employer may not take into consideration in making decisions, and which omits colour from that list. **The Committee requests the Government to, during the next reform of the Labour Code, take measures to incorporate: (i) a reference to colour in section 4; and (ii) an express definition and prohibition of any direct or indirect discrimination at any stage of employment. It also requests the Government to take measures to disseminate the provisions of articles 226, 227 and 228 of the Criminal Code on discrimination to employers, workers and their respective organizations. The Government is requested to provide information on their application in practice in the public and private sector, indicating the conditions of proof applicable, and giving examples of cases of discrimination handled (section 226) and exceptions (section 228) applied by labour inspectors or the courts.**

The Committee is raising other matters in a request addressed directly to the Government.

Croatia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1991)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 2 and 3 of the Convention. Gender equality and promotion of women's access to employment and occupation. In its previous comment, the Committee asked the Government to provide information on the measures taken to promote women's access to a wider range of jobs and to give them a wider choice of educational and vocational opportunities. The Committee also asked the Government for details of the number and proportion of female civil servants and civil service employees in posts of responsibility. The Committee notes the Government's reference to the National Employment Promotion Plan (NEEP) 2011–12, which was extended to 2013, and the fact that one of its priorities was the improvement of the employability of women. Measures in this plan included the revision of existing labour market policies in order to foster the labour market participation of women with few qualifications and to provide educational and training programmes adapted to the needs and circumstances of women (especially those with few skills) who are returning to the labour market. The Government indicates that in 2012, 36 per cent of new entrants to educational programmes (for unemployed persons) were women. That year, vocational training was introduced in the form of work-based training (occupational training without commencing employment) which, according to the Government, allows unemployed persons to gain professional experience in the occupational sector for which they were trained. In 2012, 5,456 persons benefited from this (72 per cent were women) and 14,445 new participants joined the programme (71 per cent women). The Committee notes the Government's statement that the Croatian Employment Service (HZZ) implemented a project entitled "Women in the Labour Market" in order to reduce unemployment and contribute to the elimination of all forms of discrimination against women in the labour market, but that it does not specify the time frame for the project. The Government also indicates that, in February 2012, a "Palette of new active employment policy measures for women who are unfavourably positioned on the labour market" was completed. As a result, 50 employees of the HZZ and social welfare centres were trained; a trainer manual was developed; a "Guide for gender-aware policy" and a "Handbook with examples of good practices in implementing active labour market policies for women unfavourably positioned in the labour market" were published; and a short documentary film was produced.

The Committee notes the concerns expressed by the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) that the effectiveness of the Office for Gender Equality and the Ombudsperson for Gender Equality is hampered by the inadequacy of the human, technical and financial resources allocated to them (CEDAW/C/HRV/CO/4-5, 28 July 2015, paragraph 12). Noting that the National Gender Equality Policy 2011–15 has expired, the Committee notes the Government's indication in its report that the Office for Gender Equality is in the process of preparing a new policy for the period 2017–20 but that, to date, it has not been adopted. ***The Committee asks the Government to provide information on the adoption of a new National Gender Equality Policy, its content and the period it covers. It also requests information on the results achieved under the National Gender Equality Policy 2011–15. The Government is also asked to indicate during which period the project "Women on the Labour Market" was implemented; to provide information on results achieved and to indicate whether this project, or any similar project, has been renewed. The Committee asks the Government to provide information on the number and proportion of women in the labour force, in both the private and public sectors, if possible by sectors of activity.***

Equality of opportunity and treatment in employment and occupation of the Roma. In its previous comments, the Committee asked the Government to provide information on the measures taken to ensure access to education for Roma children without discrimination; to strengthen its efforts to promote employment opportunities and to ensure equal treatment of Roma people, particularly women, in employment and occupation; and to provide specific information on the impact of the job search assistance provided for the Roma people by the employment service. The Government indicates that the HZZ does not monitor unemployed persons according to their national extraction, but that it is estimated that, out of the 16,975 persons of Roma national minority living in Croatia (according to the census conducted in 2011), 4,499 were registered as unemployed with the HZZ in 2011 and 4,206 in 2017. In the period 2015–17, on

average, 48 per cent of Roma people registered with the HZZ were women. The Committee notes the Government's description of the regular activities of the HZZ to which all registered unemployed persons, including Roma, are invited as well as the activities directed exclusively at these persons, such as group counselling, targeted visits to employers to promote the employment of members of the Roma community, promotion of existing employment and self-employment measures and advice on starting a business. It also notes that the HZZ carries out a number of active labour market policy measures targeting disadvantaged unemployed persons, applying the "Guidelines for the development and implementation of active employment policy in the Republic of Croatia for the period 2015–2017", in order to increase the employment rate of disadvantaged groups, including the Roma. The Committee notes that the Annual Report of the Ombudsperson for 2017 points to discrimination in employment on the grounds of ethnicity, with the Roma national minority being particularly affected. According to the Ombudsperson, employers are still reluctant to employ persons belonging to the Roma community, mainly due to widespread stereotypes about their way of life and work habits. The Committee also notes the adoption of a National Roma Inclusion Strategy (NRIS) 2013–20 identifying employment as one of the four "crucial areas" of a comprehensive strategy. Regarding education, the Committee notes that, according to a report of the European Commission against Racism and Intolerance (ECRI) dated 21 March 2018, despite the introduction of free pre-school education in the year preceding enrolment in primary school which has contributed to an increase in the enrolment rate of Roma children, only 32 per cent of these children aged from 4 to 6 years attended pre-school in 2016 (compared to 72 per cent of the general population). Although the rate of enrolment of Roma children in compulsory primary school is as high as in the general population (95 per cent), this rate drops significantly at secondary school (35 per cent compared to 86 per cent of the general population). According to the ECRI, 77 per cent of young Roma people aged 16–24 years are neither in work nor in education or training. ***The Committee reiterates its requests to the Government to provide information on the measures taken to ensure access to education, including pre-school education for Roma children without discrimination. It also asks the Government to continue providing information on the measures specifically designed to promote employment opportunities and to ensure equal treatment of Roma people, and particularly women, in employment and occupation. The Government is also asked to provide more details on the impact of the job search assistance provided for Roma people by the employment service and to indicate the results achieved through the implementation of the National Roma Inclusion Strategy (NRIS) 2013–20.***

Article 3(d). Access of national minorities to employment under the control of a national authority. In the absence of information regarding the implementation of the Civil Service Employment Plan for persons belonging to national minorities for the period 2011–14, the Committee once again asks the Government to provide information on the following:

- the action taken by the Government to promote and ensure access by members of national minorities to public employment in the framework of the Civil Service Employment Plan and the results achieved;*
- the progress made in achieving recruitment targets for minorities;*
- the current ethnic and gender composition of the civil service; and*
- any obstacles encountered in the implementation of the above-mentioned plan.*

Enforcement. The Committee notes that the Annual Report of the Ombud for 2017 underlines the issue of under-reporting of cases of discrimination, and the lack of awareness of the issue and of the available avenues for redress. It also pointed out that the currently available data on the number of court proceedings and their completion, the rate of success of documents and sanctions against the perpetrators of discrimination may be discouraging for victims, with protracted procedures, few claims upheld, low levels of compensation and sentences often below the legally required minimum. The Ombud recommended further improvements in the position of victims and the development of preventive action and better training on discrimination, as well as more dissuasive sentencing. ***The Committee once again asks the Government to provide information on the application in practice of the relevant provisions of the Labour Act, 2014, and the Anti-Discrimination Act, 2008, including the number and nature of cases of discrimination in employment and occupation reported to the Ombud or filed with the courts by the labour inspectorate. The Committee also once again asks the Government to clarify whether labour inspectors conduct any awareness-raising activities aimed at eliminating discrimination in employment and occupation on any of the grounds prohibited by the national legislation. The Committee reiterates its request for the Government to: (i) take the necessary measures to promote public awareness of the anti-discrimination legislation and***

the available remedies; (ii) indicate the measures taken to assist victims in bringing discrimination cases; and (iii) ensure that victims' rights are protected once they have filed a complaint.

Noting the concerns expressed by CEDAW that the effectiveness of the Office for Gender Equality and the Ombud for Gender Equality are hampered by the inadequacy of the human, technical and financial resources allocated to them, the Committee wishes to recall that a lack of human and material resources has an impact on the capacity of these bodies to perform their tasks and exercise their powers effectively. **The Committee asks the Government to identify the steps taken or envisaged to ensure that these equality bodies have sufficient resources to achieve their full mission.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Democratic Republic of the Congo

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)

Previous comment

Articles 1 and 2(2)(a) of the Convention. Equal remuneration for work of equal value. Definition of remuneration. Legislation. The Committee recalls that: (1) section 7.8 of the Labour Code provides a general definition of remuneration and excludes certain benefits from it (accommodation and accommodation allowances, transport allowances, "benefits granted exclusively to facilitate workers' performance of their duties", and so on); and (2) section 86 does not reflect the principle of equal remuneration for men and women for work of equal value since it limits wage equality to "equal conditions of work, qualifications and output". The Government reiterates in its report that the exclusion of these benefits from remuneration enables workers to enjoy certain non-taxable emoluments, thereby improving their purchasing power, and that consequently no amendment of section 7.8 of the Labour Code is envisaged. As regards section 86 and the inclusion in the Labour Code of the principle of equal remuneration for men and women for work of equal value, the Committee notes that the Government does not provide any information in this regard. The Committee wishes to point out that, irrespective of the existence of a definition of "remuneration" for tax purposes as provided for in section 7.8, for the purposes of the application of the Convention the definition of the term "remuneration" must be expanded to apply not only to the ordinary, basic or minimum wage or salary but also to "any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment". **The Committee therefore once again requests the Government to take the necessary measures to incorporate in the Labour Code: (i) the principle of equal remuneration for men and women for work of equal value; and (ii) a definition of "remuneration" in accordance with Article 1(a) of the Convention for the purposes of the application of this principle.**

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2001)

Previous comment

Article 1 of the Convention. Protection of workers against discrimination. Legislation. Public and private sectors. With regard to the legal protection of private sector workers and public officials against discrimination, the Committee notes the Government's indication that there are not yet any plans to incorporate the definition of direct and indirect discrimination in the Labour Code and in Act No. 16/013 of 15 July 2016 issuing the staff regulations for state civil servants. **In order to expand the legal**

protection of workers in the public and private sectors against discrimination, the Committee requests the Government to take the necessary steps to ensure that an explicit definition of direct and indirect discrimination, based as a minimum on all of the grounds set out in the Convention and covering all aspects of employment and occupation, including recruitment, is incorporated in the Labour Code and in Act No. 16/013 issuing the staff regulations for state civil servants.

Article 1(1)(a). Discrimination on the basis of sex. Sexual harassment. The Committee notes that the Government does not provide any information in response to its request to incorporate provisions relating to hostile work environment sexual harassment in the legislation. **The Committee therefore once again requests the Government to take steps as soon as possible to expand the legislation by incorporating provisions: (i) defining and prohibiting hostile work environment sexual harassment; and (ii) establishing preventive measures, mechanisms for handling complaints, and appropriate penalties. The Committee also requests the Government to provide information on the application in practice of the existing provisions of the Penal Code and the Ministerial Order of 2005, especially on the number of cases of sexual harassment handled by labour inspectors or the courts and the outcome thereof, and on any awareness-raising campaigns conducted or planned to combat all forms of sexual harassment, in collaboration with the social partners.**

Articles 1(1)(a) and 3(d). Discrimination on the basis of sex. Leave in the civil service. Recalling the Government's indication that the issue of section 30 of Act No. 16/013 – under which a woman public official who has taken maternity leave cannot claim her right to take “recreational leave” (paid annual leave) during the same year – was due to be discussed with the trade unions in a joint committee, the Committee notes the Government's indications that: (1) section 30 has been formulated on a consensual basis by representatives of the Government and representatives of the most representative public service workers' organizations; and (2) women public officials have not submitted any complaints. In this regard, the Committee wishes to emphasize that a restriction of this type constitutes discrimination on the basis of sex, since it amounts in practice to depriving women who have taken maternity leave from taking their paid annual leave during the same year. **Recalling that the absence of complaints does not signify the absence of discrimination but may reflect the absence of an appropriate legal framework or of access to complaint mechanisms and remedial processes or even fear of reprisals, the Committee once again requests the Government to take the necessary steps to amend section 30 of Act No. 16/013 and bring it fully into line with the provisions of the Convention.**

Discrimination on the basis of race or ethnic origin. Indigenous peoples. The Committee welcomes the Government's indication that the Act to protect and promote the rights of indigenous pygmy peoples was adopted at first reading by the National Assembly on 7 April 2021 and that it will contribute to strengthening measures for the protection of indigenous peoples. The Committee notes that this Act was adopted at second reading by the Senate on 10 June 2022. **In light of the above, the Committee trusts that the Act to protect and promote the rights of indigenous pygmy peoples will be promulgated and published in the Official Journal in the near future. It requests the Government to indicate the measures taken towards this end and to send a copy of the Act once it has been promulgated. The Committee also requests the Government to take practical steps to: (i) prevent and combat all forms of discrimination in employment and occupation, including with regard to pay, and combat prejudices and stereotypes to which indigenous pygmy peoples are exposed; and (ii) enable members of indigenous peoples to have access to all levels of education, vocational training and employment and to other resources which enable them to carry out their traditional and subsistence activities, including access to credit and land.**

The Committee is raising other matters in a request addressed directly to the Government.

Ecuador

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1957)

Previous comment

Articles 1(b) and 2(2)(a) of the Convention. Equal remuneration for work of equal value. Legislation. With reference to the need to give full expression in law to the principle of equal remuneration for men and women for work of equal *value*, the Government indicates in its report that: (1) it is aware that fundamental changes are needed in the field of labour legislation in general; (2) a national debate has been launched in the context of the National Opportunities Plan 2021–25, with the participation of civil society, workers, employers and academics, with a view to developing consensus proposals for reforms to the current Labour Code, including section 79, to reflect the provisions of the Convention and refer to work of “equal value” or, if not, develop proposed legislation that strengthens the field of labour and also includes non-restrictive precepts; and (3) throughout this process the legislative authorities play a fundamental role in formalizing these aspirations. The Committee welcomes the Government’s disposition to take the necessary legislative measures to give effect to the request that it has been making for many years. While noting the difficulties involved in making an amendment to a Labour Code, the Committee recalls that, as recognized by the Government, it is necessary to amend section 79 of the Labour Code as it contains a more restrictive definition than the principle established by the Convention. ***The Committee trusts that the necessary legislative measures, including going beyond the reform of the Labour Code, will be adopted in the near future to give full effect to the principle established in Article 1(b) of the Convention, which refers to work of “equal value”.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1962)

Previous comment

Article 1(1)(a) of the Convention. Grounds of discrimination in employment and occupation. The Committee notes the Government’s indication in its report that: (1) it is aware that fundamental changes are required in the field of labour legislation in general; and (2) on the basis of the National Opportunities Plan 2021–2025, a national debate has been launched, with the participation of civil society, workers, employers and academics, to develop consensual proposals for reforms of the current Labour Code, with a more integrated vision which takes into account the content of broader legislative frameworks. ***The Committee expresses the firm hope that the necessary measures will be taken without delay for the inclusion in the legislation of provisions prohibiting both direct and indirect discrimination based on at least all of the grounds envisaged in Article 1(1)(a) of the Convention in relation to access to employment, vocational training and promotion.***

Discrimination on the basis of sex. Sexual harassment. With reference to its previous comments, the Committee notes the information provided by the Government: (1) on the adoption of Ministerial Decision No. MDT-2017-0082 of 11 May 2017, containing the Standard for the Eradication of Labour Discrimination; (2) that the Ministry of Labour is revising Ministerial Decisions Nos MDT-2017-0082 and MDT-2020-244 with a view to including the criteria set out in Article 1(b) of the Violence and Harassment Convention, 2019 (No. 190), which Ecuador ratified in 2021; and (3) on the adoption of the Comprehensive Basic Act to Prevent and Eradicate Violence against Women, of 5 February 2018, which considers sexual harassment to be sexual violence. The Committee also notes the concluding observations of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), in which it calls on the Government to ensure the effective implementation of the provisions

of the Comprehensive Basic Act to Prevent and Eradicate Violence against Women and sections 141 and 142 of the Comprehensive Basic Criminal Code by allocating the necessary resources and providing systematic and recurrent training to judges, prosecutors, the police and other law enforcement officers on their strict enforcement and the strengthening of measures to prevent, combat and punish all forms of gender-based violence against women (CEDAW/C/ECU/CO/10, 24 November 2021, paragraph 22(a)). Accordingly, while noting these legislative and administrative initiatives, the Committee recalls the importance of adopting effective measures to prohibit sexual harassment at work. **The Committee trusts that the Government will adopt without delay the measures within its power for the integration into the labour legislation, including the Ministerial Decisions referred to above, of a provision which defines and clearly prohibits sexual harassment (see the 2012 General Survey on the fundamental Conventions, paragraphs 789–794).**

Moreover, with regard to complaints of discrimination which include cases of sexual harassment, the Committee notes the Government's indication that between January 2019 and June 2022 the Ministry of Labour or Directorates of Labour and the Public Service and their national delegations received: (1) 144 complaints relating to the private sector; and (2) 420 complaints in the public sector. The Government adds that the significant difference between complaints in the public and private sectors is due to the Ministry of Labour undertaking various initiatives since 2019 to increase visibility of structural inequalities and violations of labour rights which have promoted the effective enjoyment of labour rights. The Committee takes note of these initiatives. **The Committee requests the Government, in cooperation with workers' and employers' organizations, to continue taking measures to prevent sexual harassment in employment and occupation in both the private and public sectors. The Committee requests the Government to continue providing information on the number of complaints received, and on the number and type of penalties imposed and the compensation granted.**

Lastly, the Committee recalls that for several years the Government has been referring to a possible amendment of the Labour Code to address the issues raised, which has not been adopted in practice. The Committee considers that the legislative measures that it has been calling for to give full effect to the Convention should not remain pending while awaiting a possible revision of the Labour Code.

The Committee is raising other matters in a request addressed directly to the Government.

Egypt

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1960)

Previous comment

Articles 1(b) and 2(2)(a) of the Convention. Work of equal value. Legislation. The Committee had pointed out previously that, while section 35 of the Labour Law No. 12 of 2003 prohibits discrimination in wages based, among other grounds, on sex, and while section 88 is a general non-discrimination provision applying specifically to women workers where their working conditions are similar (or analogous), neither section gives effect to the principle of equal remuneration for men and women for work of equal value set out in the Convention. The Committee notes with **regret** that the Government's report does not contain any information in this regard and merely refers to its previous replies in which it referred to the Constitution (general prohibition of discrimination), and to pending draft amendments to the Labour Law. The Committee, once again highlights that the concept of "work of equal value" lies at the heart of the fundamental right of equal remuneration for men and women for work of equal value as it permits a broad scope of comparison, including, but going beyond, equal remuneration for "equal", "the same" or "similar" work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value (see the 2012 General Survey on the fundamental Conventions, paragraphs 673–675). **The Committee once again asks the Government to take the necessary steps to**

amend the relevant provisions of the Labour Law No. 12 of 2003, so as to provide not only for equal remuneration for men and women where their working conditions are similar or analogous but also to ensure equal remuneration for men and women in situations where they perform different work, requiring different skills, qualifications, efforts and responsibilities, and with different working conditions, that is nevertheless of equal value overall. It asks the Government to provide information on any steps taken in this regard.

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1960)

Previous comment

Article 1 of the Convention. Protection against discrimination. Legislation. Private sector. With respect to the absence of comprehensive anti-discrimination provisions in the Labour Law No. 12 of 2003, the Committee observes that: (1) there is no definition and no explicit prohibition of discrimination; (2) sections 35 (discrimination in wages), and 120 (employment termination) of the Labour Law, while providing some protection against discrimination, do not cover all discrimination grounds enumerated by the Convention and do not apply to access to employment and all terms and conditions of work, and do not appear to address indirect discrimination; and (3) section 4(b) of the Labour Law explicitly excludes domestic workers from its scope of application. The Committee notes that, in its report, the Government merely refers to the same provisions of the Labour Law and the Constitution of 2014. In this regard, the Committee observes once again that: (1) article 53 of the Constitution provides that all citizens are equal before the law, without discrimination based on religion, belief, sex, origin, race, colour, language, disability, social class, political or geographical affiliation, or for any other reason; (2) the text of the Constitution excludes non-citizens from its application, while the Convention covers both nationals and non-nationals; and (3) the provisions of the Constitution do not appear to be directly invoked in civil proceedings by employees in the private sector. In this regard, the Committee highlights that constitutional provisions, while important, have generally not proven to be sufficient to address specific cases of discrimination in employment and occupation, and that a more detailed legislative framework is required (see [2012 General Survey on the fundamental Conventions](#), paragraph 851). The Committee further takes note of the draft Law on the Regulation of Domestic Workers' Employment of 2022, drafted with the technical assistance of the ILO, and welcomes the inclusion in section 4 of the prohibition of discrimination on the grounds of "religion, creed, gender, race, ethnicity, colour, language or asylum status or for any other reason resulting in a breach of the equal opportunity principle".

Public service. In the absence of relevant information in the Government's report and in the absence of explicit anti-discrimination provisions in Act No. 47 of 1978 on the Civil Service, the Committee recalls the obligation of ratifying States to ensure and promote the application of the principles of the Convention to all workers, including public servants (see [2012 General Survey on the fundamental Conventions](#), paragraphs 741 and 742). The Committee notes the information provided by the ILO Decent Work Technical Support Team for North Africa and Country Office for Egypt and Eritrea (DWT/CO-Cairo) that the draft new Labour Law was approved by the Upper House and will be submitted to the Lower House.

Consequently, the Committee urges the Government to take the necessary steps to ensure that the revised Labour Law will include provisions: (i) clearly prohibiting and defining direct and indirect discrimination based on at least the seven grounds listed in the Convention (namely, race, colour, sex, religion, political opinion, social origin and national extraction); (ii) covering all stages of employment, including recruitment, promotion and terms and conditions of employment; and (iii) specifying preventive measures and remedies available for victims and sanctions for authors of discrimination.

The Committee also asks the Government to take steps to include such provisions in the Civil Service Law (Act No. 47 of 1978). Furthermore, the Committee urges the Government to take the necessary measures to expedite the process of adoption of the Law on domestic workers to ensure their protection against discriminatory practices, in accordance with the Convention.

Article 1(1)(a). Discrimination on the basis of sex. Sexual harassment. The Committee recalls the absence in the Labour Law as well as in the Civil Service Law (Act No. 47 of 1978) of provisions protecting workers against sexual harassment and the importance of clearly defining and prohibiting sexual harassment in employment and occupation. It further recalls that, while the provisions of the Penal Code (Act No. 58/1937), as amended by Act No. 50/2014 (sections 306A bis and 306B bis) address certain forms of sexual harassment, they still define sexual harassment too narrowly and do not cover the full range of behaviours that may constitute sexual harassment in employment and occupation. The Committee recalls that criminal provisions are not completely adequate in discrimination cases because, inter alia, they do not always provide a remedy to the victim and are very unlikely to cover all forms of conduct that amount to sexual harassment. Noting that the Government's report is silent on this issue, the Committee notes with **regret** the absence of progress in developing an appropriate framework defining, prohibiting and addressing all forms of sexual harassment specifically in employment and occupation, and refers the Government to paragraphs 789 and 792 of its 2012 General Survey on the fundamental Conventions for more details on sexual harassment. The Committee wishes to recall that in its [general observation](#) of 2002, it highlights the importance of taking effective measures to prevent and prohibit sexual harassment at work. Such measures should address both: (1) any physical, verbal or non-verbal conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men, which is unwelcome, unreasonable, and offensive to the recipient; and a person's rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person's job (quid pro quo); and (2) any conduct that creates an intimidating, hostile or humiliating working environment for the recipient (hostile work environment). The Committee further notes that, according to the information provided by the DWT/CO-Cairo, the draft Labour Law contains provisions on sexual harassment. ***In light of the above, the Committee urges the Government to take the opportunity of the revision of the Labour Law to ensure that it includes a clear definition and prohibition of all forms of sexual harassment and establishes mechanisms for prevention and redress, including appropriate sanctions and compensation. It also asks the Government to take steps to include such provisions in the Civil Service Law (Act No. 47 of 1978). Finally, the Committee asks the Government to provide information on any awareness-raising measures taken, in cooperation with the social partners, with a view to preventing and eliminating sexual harassment in employment and occupation both in the public and private sectors.***

The Committee is raising other matters in a request addressed directly to the Government.

El Salvador

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2000)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1(a) of the Convention. Definition of remuneration. Legislation. In its previous comments, the Committee asked the Government to take the necessary steps to ensure that occasional bonuses, gratuities and reimbursements in kind referred to in section 119 of the Labour Code and which are not included in the definition of wages according to that legislative provision, are included in the concept of remuneration. In this regard, the Committee notes the Government's indication in its report that the National Labour Directorate is drawing up plans to carry out scheduled inspections to check the existence of labour discrimination relating, inter alia, to differences in wages between men and women in the same job or post. The Committee also notes that the Government reiterates that the emoluments provided for in section 119(2) of the Labour Code are often granted by employers outside the employment contract and/or collective

agreement so it is difficult for the labour inspectorate to carry out checks and impose penalties in relation to this provision. In this regard, the Committee wishes to recall that *Article 1(a)* of the Convention sets out a very broad definition of the term “remuneration”, which includes not only “the ordinary, basic or minimum wage or salary” but also “any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the workers’ employment”. This broad definition of remuneration in the Convention seeks to encompass all forms of recompense that a worker may receive for his or her work, including payments in cash as well as in kind, and also payments made directly or indirectly by the employer to the worker for the work done. Such a broad definition is necessary since if only the basic wage were being compared, much of what can be given a monetary value arising out of the job would not be captured, and such additional components are often considerable, making up increasingly more of the overall earnings package. The words “directly or indirectly” were added to the definition of remuneration in the Convention with a view to ensuring that certain emoluments which were not payable directly by the employer to the worker concerned would be covered. The definition also captures payments or benefits, whether received regularly or only occasionally (see the 2012 General Survey on the fundamental Conventions, paragraphs 686–687). ***The Committee requests the Government to take steps to raise the awareness of the social partners regarding the principle of the Convention and its implications so as to ensure that occasional bonuses, gratuities and reimbursements in kind referred to in section 119(2) of the Labour Code are included in the concept of remuneration, in accordance with the principle established by the Convention.***

Article 1(b). Work of equal value. Legislation. The Committee has been referring for nearly two decades to the need to amend article 38(1) of the Constitution, section 123 of the Labour Code and section 19 of the Standard Work Regulations for the Private Sector so that the principle of equal remuneration for men and women for work of equal value is incorporated. In this regard, the Committee notes with **regret** that the Government simply reiterates that the content of article 38 of the Constitution promotes the principle of equal pay for equal work, and refers to the existence of the “Act on equality and the eradication of discrimination against women” and its National Equality Plan. The Committee recalls that the Convention’s principle of “equal remuneration for men and women workers for work of equal value” includes, but goes beyond, equal remuneration for “equal”, “the same” or “similar” work and also encompasses work of an entirely different nature which is nevertheless of equal value. ***The Committee once again urges the Government to take the necessary steps without delay to give full expression in law to the principle of equal remuneration for men and women for work of equal value, and to provide information on progress made in this regard.***

Article 2. Public sector. The Committee has been referring for more than a decade to section 65 of the Civil Service Act of 1961, which provides that “jobs shall be classified into similar groups in terms of duties, functions and responsibilities ... so that they can be assigned the same level of remuneration under similar conditions of work”, and which is more restrictive than the principle of equal remuneration for men and women for work of equal value. In its latest comments, the Committee asked the Government to take the necessary steps to incorporate the principle of equal pay for men and women for work of equal value in the Civil Service Act of 1961. The Committee also asked the Government to provide information on the methods used to determine job classifications and pay scales applicable to the public sector. The Government indicates that wages are assigned under the General Budget Act and Wage Act, and that this is done without distinction between men and women. It also states that it issued Directive No. 4025 establishing standards for the classification of posts, and which classifies posts by category and establishes criteria for analysis of the appointed staff. The Government indicates that there are no regulations for establishing salary structures but that each institution has criteria and internal policies for assigning salaries for officials and employees. At the government level, the criteria are: suitability for the post, hierarchical level, and reclassification of posts to be filled according to the duties involved, with the proviso that the salary concerned must not distort the pay scale. The Committee recalls that “historical experience has shown that insistence on factors such as ‘equal conditions of work, skill and output’ can be used as a pretext for paying women lower wages than men. While factors such as skill, responsibility, effort and working conditions are clearly relevant in determining the value of the jobs, when examining two jobs, the value does not have to be the same with respect to each factor – determining value is about the overall value of the job when all the factors are taken into account” (see the 2012 General Survey on the fundamental Conventions, paragraph 677). ***The Committee once again requests the Government to take the necessary steps to ensure that: (i) the principle of equal remuneration for men and women for work of equal value is incorporated in the Civil Service Act of 1961, and in the General Budget Act and the Wage Act; and (ii) Directive No. 4025***

establishing standards for the classification of posts, each institution's criteria and internal policies, and also government directives, respect the principle set forth in the Convention.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1995)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1(1)(a) of the Convention. Discrimination on the basis of sex. Pregnancy and maternity. In its previous comments, the Committee requested the Government to take the necessary steps to ensure that women workers enjoy effective protection against dismissal and any other acts of discrimination on the grounds of pregnancy or maternity in the public and private sectors, including in the *maquila* (export processing) sector, and to supply information on any developments in this respect. The Committee also requested the Government to continue providing information on the number of complaints filed, indicating the grounds for the complaints, sectors concerned, proceedings instituted, remedies granted and penalties imposed. The Committee notes the Government's indication in its report that, in June 2018, the Labour and Social Welfare Committee of the Legislative Assembly approved an amendment to section 113 of the Labour Code granting a six-month employment guarantee after the worker returns from the four months of maternity leave, in the public, municipal or private sectors, and establishes fines of three to six months of the minimum wage for non-compliance. The Government also indicates that labour inspections are conducted with the objective of providing protection for women against violations of their rights: in 2015, some 117 inspections were conducted in the private sector, and 23 in the *maquila* sector; in 2016, some 131 inspections were conducted in the private sector, and 30 in the *maquila* sector; and, in 2017, a total of 141 inspections were conducted in the private sector and 21 in the *maquila* sector. The Government adds that, 20 pregnant women were reinstated in their posts in 2015; 22 in 2016; 25 in 2017; and one in 2018. The Committee welcomes the reported legislative initiative that would grant greater job security to women up to six months after the period of maternity leave. **The Committee requests the Government to provide information on the announced reform of section 113 of the Labour Code. In addition, observing that the Government reported the reinstatement of several pregnant women, the Committee requests the Government to provide information on the scope of the protection in law of pregnant women and to continue providing information on the number of complaints alleging discrimination on pregnancy or on maternity, the sectors concerned, violations found, remedies granted and penalties imposed.**

Sexual harassment. In its previous comments, the Committee requested the Government to take the necessary measures without delay to include in the Act on the prevention of work-related risks of 2010 provisions that: (i) define and prohibit both quid pro quo and hostile work environment sexual harassment; (ii) provide access to remedies for all men and women workers, men and women to report such harassment; and (iii) provide for sufficiently dissuasive sanctions and adequate compensation. In this respect, the Committee notes the Government's indication that section 7 of the Act of 2010 defines sexual harassment as a psychosocial risk, and section 29 of the Labour Code prohibits sexual harassment by employers. The Government reports that the labour inspectorate has a procedure to impose fines for acts of this nature, with the possibility of bringing charges against the offender, and a protocol on complaints of sexual and workplace harassment. The Government reports that, in 2015, one inspection was conducted into harassment; none in 2016; and five in 2017. Over the years, the Committee has consistently expressed the view that sexual harassment, as a serious manifestation of sex discrimination and a violation of human rights, is to be addressed within the context of the Convention. Given the gravity and serious repercussions of sexual harassment, the Committee recalls the importance of taking effective measures to prevent and prohibit sexual harassment in employment and occupation (see 2012 General Survey on the fundamental Conventions, paragraph 789). **While noting the information provided by the Government, the Committee once again requests the Government to take the necessary measures to include in the Act on the prevention of work-related risks of 2010 provisions that: (i) define and prohibit both quid pro quo and hostile work environment sexual harassment; (ii) provide access to remedies for all men and women workers; and**

(iii) provide for sufficiently dissuasive sanctions and adequate compensation. The Committee also requests the Government to continue sending information on: (i) any measures adopted to prevent sexual harassment and to raise awareness among workers and employers; and (ii) the number of complaints concerning sexual harassment in employment and occupation received, the penalties imposed and compensation awarded.

Article 1(1)(b). Real or perceived HIV status. In its previous comments, the Committee noted that Decree No. 611 of 2005 reforming the Labour Code introduced a new section 30, which prohibits discrimination against workers on the basis of their HIV status and also prohibits compulsory HIV testing as a condition for acquiring or retaining employment. However, the Committee noted that the Public Service Act of 1961 provides that any person who suffers from an infectious/contagious disease may not enter the administrative career service. In this regard the Government indicates that, in December 2016, a Plan on monitoring the labour rights of people with HIV was launched with the slogan “Inspection with Inclusion”. The Government reports that two inspections were conducted in this context in 2016 and none in 2015 and 2017. **The Committee notes this information and requests the Government to take the necessary steps to amend the Public Service Act of 1961 in order to provide adequate protection for all workers in the public sector against discrimination on the basis of real or perceived HIV status, with such protection including the prohibition of compulsory HIV testing as a condition for acquiring or retaining employment. The Committee requests the Government to report the measures adopted to implement the “Inspection with Inclusion” plan and the results achieved.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Fiji

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2002)

The Committee notes that the Government’s report has not been received. It is therefore bound to repeat its previous comments.

Article 1(1) of the Convention. Protection against discrimination. Public service. Legislation. The Committee recalls that the Public Service Act of 1999 does not contain any provision linked to discrimination. In its previous comment, it noted that, following the adoption of the Public Service (Amendment) Decree, No. 36 of 2011, section 10B(2) and section 10C prohibit discrimination in all aspects of employment, based on ethnicity, colour, gender, religion, national extraction and social origin, but omitting political opinion. The Committee asked the Government to: (1) take the necessary measures to include political opinion among the prohibited grounds of discrimination listed in the Public Service (Amendment) Decree; and (2) indicate how public service employees and applicants for public service employment are protected against discrimination based on political opinion in practice. The Committee notes the Government’s indication in its report that Decree No. 36 of 2011 was amended by the Employment Relations (Amendment) Act, 2016, and that Parts 2A and 2B, including sections 10B and 10C of the Public Service (Amendment) Decree, have been repealed. The Amendment Act also amended the definition of “workers” to include contractual civil servants under the Employment Relations Act 2007 (ERA).

The Committee recalls that section 6(2) of the ERA prohibits discrimination on the grounds listed in the Convention, including the ground of political opinion. It also notes that Part I (interpretation), section 4, of the ERA provides that a worker is employed under contract of service, and that the concept of employer includes the Government, other Government entities or local authorities and a statutory authority. The Committee observes that the Public Service Act, 1999, as well as Decree No. 36 of 2011, cover employees in the public sector who are civil servants (career public servants) and that workers in the public sector who are employed under a contract of service are covered by the ERA. In that regard, it stresses once again that sections 10B(2) and 10C of Decree No. 36 of 2011 do not prohibit discrimination on the ground of political opinion. It recalls once again that, where legal provisions are adopted to give effect to the principle of the Convention, they should include at least all the grounds of discrimination specified in *Article 1(1)(a)* of the Convention. **The Committee once again asks the Government to take the necessary measures to ensure that**

political opinion is included among the prohibited grounds of discrimination listed in the Public Service Act 1999. The Committee also requests the Government to indicate how in the meantime public service employees and applicants to public service employment are protected against discrimination based on political opinion in practice.

Enforcement and access to justice. The Committee recalls that the Conference Committee on the Application of Standards (CAS) (International Labour Conference, 100th Session, 2011) noted that section 266 of Decree No. 21 of 2011 prohibits any action, proceeding, claim or grievance “which purports to or purported to challenge or involves the Government (...) any Minister or the Public Service Commission (...) which has been brought by virtue of or under the [Employment Relations Act]”. The CAS urged the Government to ensure that government employees have access to competent judicial bodies to claim their rights and adequate remedies. Consequently, the Committee asked the Government to provide detailed information on the procedure and means of redress available to workers excluded from the scope of the ERA alleging discrimination in employment and occupation which purport to challenge or involve public authorities. The Government indicates that the Employment Relations (Amendment) Act 2016 repealed the Essential National Industries Decree 2011 (ENI) to allow civil servants and workers in statutory authorities and commercial banks to lodge their claims either through their trade unions as a trade dispute or as individual grievances. The Government adds that any worker, including civil servants, may file or lodge their employment grievance with the Mediation Services of the Ministry of Employment, Productivity and Industrial Relations, including for any matters pertaining to being discriminated against by their employer. According to the Government, in 2019, the Mediation Services received 22 grievances relating to discrimination, of which 13 were individual grievances reported by workers themselves and nine were reported by unions.

The Committee notes that, with regard to workers in the private sector, the ERA provides for a range of avenues of redress, such as the mediation services, the employment relations tribunal and the employment relations court. Regarding civil servants, the Public Service Regulations (L.N. 48 of 1999) provide in paragraph 28 that a chief executive must put in place, in his or her Ministry or department, appropriate procedures for employees to seek review of action that they consider adversely affects their employment. The Committee notes that section 266 of Decree No. 21 of 2011 may apply to both workers in the private and public sectors, as it prohibits any action, proceeding, claim or grievance “which purports to or purported to challenge or involves the Government (...) any Minister or the Public Service Commission”.

The Committee further notes that the National Commission on Human Rights and Anti-Discrimination (CHRAD), established in 2009 under article 45 of the Constitution, can receive and investigate complaints of discrimination and seek to resolve them through conciliation. Where complaints remain unresolved, the CHRAD can refer these to a legal process. ***The Committee asks the Government to: (i) take the necessary measures to ensure that workers who purport to challenge the public authorities, in case of discrimination in employment or occupation have a formal avenue of redress; (ii) provide information on the application in practice of section 266 of the ERA; and to provide information on the anti-discrimination activities of the National Commission on Human Rights and Anti-Discrimination in employment and occupation; and (iii) report any cases brought before it and their outcome.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Finland

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1963)

Previous comment

The Committee notes the observations of the Central Organization of Finnish Trade Unions (SAK), the Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA) and the Finnish Confederation of Professionals (STTK) (hereinafter referred to as “the trade unions”), and of the

Federation of Finnish Enterprises (SY), the Confederation of Finnish Industries (EK) and the Local Government and County Employers (KT), attached to the Government's report.

Articles 1–3 of the Convention. Gender pay gap. Scope of comparison. The Committee notes the Government's acknowledgement, in its report, that the gender pay gap has decreased very slowly, from 17.2 per cent in 2010, to 16.8 per cent in 2015 to 15.8 per cent in 2020. The Government explains that equal pay is promoted through legislation, the tripartite Equal Pay Programme (2020–23) and government research and development projects. It recognizes that previous Equal Pay Programmes (2007–10, 2010–15 and 2016–19) have not been very successful in reaching their main goal. The current Programme (2020–23) promotes gender impact assessments of collective agreements and pay systems that support equal pay and pay awareness, supports the reconciliation of work and family life and dismantles the gendered segregation of the labour market. The Committee notes that, on 1 September 2022, the Ministry of Social Affairs and Health launched an overall assessment of the equal pay measures introduced, including the tripartite Equal Pay Programme 2020–23. It also notes the Government's statement that one solution it is currently exploring is pay transparency. A tripartite working group, appointed under the auspices of the Ministry of Social Affairs and Health, prepared amendments to the Act on Equality between Women and Men in order to increase pay transparency in all sectors, the objective being to prevent gender-based pay discrimination and to promote equal pay. The Government indicates that, unfortunately, this process was interrupted due to diverging views on the proposal among government parties. It refers to ongoing initiatives on pay transparency at the European Union level. It also points out that the most challenging obstacle in combating the gender pay gap is the gender segregation of the labour market: in 2019, the proportion of workers in "even occupations" (meaning occupations with 40 to 59 per cent male or female wage earners) was only 10.1 per cent (it was 13.1 per cent in 2010). It cites two projects on the subject: (i) "Dismantling segregation – Tools for a more equal working life (2021–2023)", in the context of which a policy brief and toolbox for decision-makers on the more permanent methods of dismantling occupational segregation will be prepared; and (ii) "Working careers and occupational segregation behind the gender pay gap (2022–2024)", a research project which aims to map differences in careers and career paths and their effect on pay differences, with a view to laying the foundation for developing careers and occupational structures on a more equal basis. The Committee notes the Government's indication that there is considerable variation in the scope and quality of equality plans and pay surveys carried out in the public and private sectors. In most cases, comparisons are made between employees doing the same work. Comparisons between employees covered by different collective agreements are rare. The Committee also notes the Government's indication that an extensive research and development project, entitled "Work of Equal Value 2021–2022" is being carried out, which examines "how the assessment of demands of the work should be standardized between the different sectors and occupations", so as to better recognize the demands of female-dominated sectors and occupations, with a view to developing payroll systems that could better support equal pay for work of equal value.

The Committee notes that, in their observations, the social partners all agree that gender segregation of the Finnish labour market is a serious issue and mention the unequal uptake of family leave as a reason for the gender pay gap. The trade unions deeply regret the suspension of the process towards amending the Act on Equality between Women and Men and consider that increasing wage transparency and improving access to pay information in cases of suspected discrimination would help to ensure pay equity. SY considers that the main reasons for the gender wage gap are the fact that women and men work in different industries and that the annual working hours of men are higher than those of women; and it is of the view that the gap can only be reduced by influencing educational choices and attitudes. EK considers that pay discrimination is not a significant problem in Finland and that the principle of "equal pay (equal pay for equal work)" is well implemented. According to EK, the issue of the pay gap is different from the principle of equal pay or pay discrimination and increasing pay transparency or pay openness would have no effect on promoting equal pay; it is rather necessary "to

increase the attractiveness of different sectors and improve the position of women in the labour market, [and to ensure] a more even distribution of family leave and adequate day care services for children”.

The Committee notes that, in its concluding observations, the United Nations Committee on Economic, Social and Cultural Rights noted that the implementation of the Equal Pay Programme without binding measures would not significantly accelerate the reduction of the gender wage gap. It recommended that the Government establish time-bound targets for closing the gender pay gap and legislate on remuneration transparency, with a view to making it easier to challenge unequal pay (E/C.12/FIN/CO/7, 30 March 2021, paragraphs 20–21). The Committee also notes that according to the national Action Plan for Gender Equality 2020–23: (i) the gender pay gap will be narrowed during that period by increasing pay transparency through legislation, by Government-led research and development projects and by joint efforts undertaken by the Government and the labour market organizations; and (b) Finland is in favour of promoting equal pay by increasing pay transparency through EU legislation and considers it important to clarify the concept of “equal pay for work of equal value”.

Regarding the gender segregation of the labour market, the Committee refers to its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). As for the gender pay gap and the scope of comparison taken into account, the Committee notes that the principle of equal remuneration for work of equal *value* seems to be understood and applied in a very narrow way in the labour market in Finland. It wishes to reiterate that comparing the relative value of jobs in occupations which may involve different types of skills, responsibilities, efforts or working conditions, but which are nevertheless of equal *value* overall, is essential in order to eliminate pay discrimination resulting from the failure to recognize the value of work performed by women and men free from gender bias (see the [2012 General Survey on the fundamental Conventions](#), paragraph 675). In order to address gender pay discrimination in a gender-segregated labour market where women and men are concentrated in different trades, industries and sectors, the reach of comparison between jobs performed by women and men should be as wide as possible, extending beyond occupational categories, collective agreements and enterprises. ***The Committee encourages the Government to take steps towards clarifying the meaning of “equal remuneration for work of equal value” and ensuring that a wide scope of comparison is being applied in all activities which affect the application of the principle of equal remuneration for men and women for work of equal value, including equal pay surveys. It also asks the Government to provide information on whether and how it assesses the “equal value” of public employment jobs. The Committee requests the Government to continue providing information on the evolution of the gender pay gap and any measures aimed at its reduction, especially how the issue of occupational gender segregation is being addressed. It also asks the Government to provide information on the results of the overall assessment of the equal pay measures launched by the Ministry of Social Affairs and Health on 1 September 2022, as well as on the concrete outputs produced by the following projects: “Work of Equal Value 2021–2022”, “Dismantling segregation – Tools for a more equal working life (2021–2023)”, and “Working careers and occupational segregation behind the gender pay gap (2022–2024)”.***

The Committee is raising other matters in a request addressed directly to the Government.

Lebanon

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1977)

Previous comment

The Committee notes with **deep concern** that the Government’s report, which has been due since 2019, has not been received. In light of its urgent appeal launched to the Government in 2021, the

Committee proceeds to the examination of the application of the Convention on the basis of the information at its disposal.

Articles 1–4 of the Convention. Evaluating the gender pay gap and identifying its underlying causes. The Committee notes the statistical data contained in the report *The Life of Women and Men in Lebanon: A Statistical Portrait*, published in 2021 in partnership between the United Nations Development Programme (UNDP) and the Central Administration for Statistics of Lebanon. It notes that, during the period 2018–19: (1) the overall pay gap between men and women was 3.6 per cent in favour of women, as workers who are not Lebanese nationals earn substantially less than nationals (under half as much) and the majority of those are men; and (2) when the data are disaggregated by nationality, for Lebanese nationals, the monthly wage gap between men and women was 6.5 per cent. The report also indicates that, over the same period 2018–19: (1) the earnings gap persisted in all professions; (2) the wage gap between men and women (in favour of men) was higher for operators of equipment and machinery and assembly workers (women earn 30 per cent less than men) and for professionals and technicians (women earn around 20 per cent less than men); and (3) the lowest wage gap (in favour of men) was for office employees (3.8 per cent) and craftworkers and industrial workers (4.4 per cent). **The Committee requests the Government to take measures to: (i) continue gathering, compiling and analysing data on the remuneration of men and women with a view to identifying pay gaps, where possible, disaggregated by professional category and/or economic sector, including the public sector; and (ii) identify and begin addressing the underlying causes of these gaps. The Committee requests the Government to provide data and information on the conclusions of any studies undertaken on this subject.**

Articles 1(b) and 2(2)(a). Equal remuneration for men and women for work of equal value. Legislation. The Committee notes the information provided by the ILO Regional Office for the Arab States in Beirut, according to which a draft new Labour Code had been finalized by the Ministry of Labour at the beginning of 2021, forwarded to the Council of Ministers and referred back to the Minister following the formation of the new Government in September 2021. The Committee notes that as a consequence, the reform of the Labour Code is still ongoing. It recalls that section 26 of the Labour Code of 1946, as amended in 2000, provides that “it is prohibited for the employer to discriminate between men and women who work in relation to ... the rate of the wage, employment, promotion, advancement ...”, but that it does not give expression to the concept of “work of equal value” which is at the heart of the Convention. The Committee further notes that, during the examination of the report of Lebanon by the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), the Government representative indicated that the country was endeavouring to ensure equal pay for men and women workers, and various ministries were working, in cooperation with the National Observatory for Gender Equality, to facilitate all the reforms through the collection and analysis of information with a view to preparing recommendations aimed at parity and in support of parliamentary decisions (press release, Office of the United Nations High Commissioner for Human Rights, 18 February 2022). **Recalling that it has been drawing the Government’s attention to this matter for several decades, and although aware of the difficult situation prevailing in the country, the Committee urges the Government to take measures for the inclusion in the future Labour Code of provisions establishing equal remuneration for men and women for work of equal value and specifying how equal value is measured (objective job evaluation).**

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1977)

Previous comment

The Committee notes with **deep concern** that the Government's report, due since 2019, has not been received. In light of its urgent appeal launched to the Government in 2021, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

Article 1 of the Convention. Protection of workers against discrimination. Legislation. The Committee recalls that section 26 of the Labour Code of 1946, as amended, prohibits employers from discriminating between men and women workers only in relation to certain aspects of employment: the type of work, the level of the wage, employment, promotion, advancement, vocational aptitude and dress. It notes with **regret** that this serious situation has not changed despite the fact that it has been drawing the Government's attention to this matter for over 20 years and has been requesting it to introduce into the Labour Code a definition and a general prohibition of direct and indirect discrimination on at least all of the grounds set out in *Article 1(1)(a)* of the Convention (namely, race, colour, sex, religion, political opinion, national extraction and social origin) and covering all aspects of employment and occupation within the meaning of *Article 1(3)* (namely, access to vocational training, access to employment and to particular occupations, and terms and conditions of employment). The Committee notes the information communicated by the ILO Regional Office for the Arab States in Beirut, according to which the draft text of the new Labour Code was finalized by the Ministry of Labour at the beginning of 2021 and then communicated to the Council of Ministers and referred to the Ministry when the new Government was formed in September 2021. The Committee notes that the reform of the Labour Code is therefore still under way and has not been completed. **While recognizing the difficult situation prevailing in the country, the Committee once again urges the Government to: (i) take the necessary measures to ensure that the new Labour Code contains provisions defining and prohibiting direct and indirect discrimination on at least all of the grounds set out in Article 1(1)(a) of the Convention, and covering all aspects of employment and occupation, as defined in Article 1(3), and particularly access to vocational training, and access to employment and to particular occupations; and (ii) provide detailed information on any progress achieved with a view to adopting the draft Labour Code. In the absence of full legislative protection against discrimination, the Committee also once again requests the Government to adopt specific measures to ensure in practice the protection of all workers, including domestic migrant workers and non-nationals, in all sectors of the economy, against discrimination on grounds of race, colour, religion, political opinion, national extraction and social origin in employment and occupation, including awareness-raising and prevention measures for workers, employers and their respective organizations (national campaigns, tripartite seminars and so on).**

Article 1(1)(a). Discrimination on the basis of sex. Sexual harassment. While reiterating its concern at the absence of a Government report, the Committee takes due note of the following positive development: the adoption on 21 December 2020 of Act No. 205 on the criminalization of sexual harassment and the rehabilitation of victims, which covers all fields, including the workplace, public institutions and education establishments. The Committee notes that the Act defines sexual harassment as "any repeated behaviour with a sexual connotation, which is extraordinary and unwanted by the victim, and which prejudices the victim's physical safety, private life and feelings, whether it consists of words, acts, gestures, suggestions or insinuations with a sexual or pornographic connotation", including by electronic means. Sexual harassment also includes "any act or initiative, whether or not repeated, which makes use of means of pressure that are psychological, moral, material or have a racial connotation with a view to obtaining a favour of a sexual nature for the perpetrator or for another

person". The Act provides for heavier penalties, particularly in the case of sexual harassment in the context of a work relationship, and protection against reprisals for victims and witnesses, particularly in terms of remuneration, promotion, the renewal of the employment contract and the prohibition of disciplinary penalties. It also specifies that criminal prosecution does not prevent the imposition of disciplinary penalties on the perpetrator, and provides for the creation of a special fund to assist victims. While observing that the Act is a fundamental first step in combating sexual harassment in employment and occupation, the Committee notes that: (1) criminal provisions are not completely adequate in discrimination cases because, inter alia, they do not always provide a remedy to the victim and are very unlikely to cover all forms of conduct that amount to sexual harassment; (2) the Act is not specific to the fields of employment and occupation, in which sexual harassment may also have a significant impact on the economic situation of workers, including on their retention in employment and on their professional careers; (3) it does not explicitly cover one of the two forms of sexual harassment, namely, the creation of a hostile work environment; and (4) it does not contain any measures relating to prevention, particularly the evaluation of the risk of harassment, nor to information and training for workers, nor even to internal procedures for dealing with cases of sexual harassment, such as through the establishment of a complaint, investigation and penalty mechanism. The Committee also recalls that the sole section of the current Labour Code that could be applied in cases of sexual harassment is a provision that authorizes employees to leave their jobs without notice when "the employer or his representative commits an offence against the morals of the worker" (section 75(3)). The Committee observes that this provision does not afford sufficient protection for victims of sexual harassment as, in practice, it has a punitive effect on workers (who lose their employment) and could even dissuade them from making complaints. ***While noting the legal framework established by Act No. 205 of 2020 for the criminalization of sexual harassment and the rehabilitation of victims, and in light of the above, the Committee requests the Government to take measures to amend the Act accordingly and to include in the future Labour Code provisions: (i) defining and prohibiting sexual harassment in all its forms (quid pro quo and hostile environment) without requiring the acts to be repeated, and explicitly prohibiting it in relation to all aspects of employment, including recruitment; (ii) covering all workers, including domestic workers, in all economic sectors; and (iii) envisaging the adoption and implementation of prevention measures and complaint, investigation and penalty mechanisms at the enterprise level. In the meantime, the Committee also requests the Government to take measures for the dissemination of the provisions of Act No. 205 of 2020 to workers, employers and their respective organizations, as well as those responsible for their promotion and enforcement (labour inspectors, judges and so on). It also requests the Government to provide information on the number, nature and outcome of complaints lodged under Act No. 205 of 2020 and on any interpretation by the courts of the legal definition of sexual harassment, and particularly the term "extraordinary".***

Discrimination based on sex, race, colour, national extraction and social origin. Multiple discrimination. Foreign domestic workers. For nearly 20 years, the Committee has been examining the measures taken by the Government to address the lack of legal protection for domestic workers, most of whom are foreign women, since these workers are excluded from the scope of the Labour Code and are particularly vulnerable to abuse and discrimination, including harassment, on the basis of sex and other grounds, such as race, colour and ethnic origin. In this regard, the Committee also refers to its comments under the Forced Labour Convention, 1930 (No. 29). It recalls that in 2016, in its concluding observations, the United Nations Committee on the Elimination of Racial Discrimination (CERD) noted with concern that "abuse and exploitation of migrant domestic workers continues to occur" despite the measures taken by the State party. It observes that, in its concluding observations in 2021, the CERD continues to express concern about "the sponsorship system (*kafala*), which results in employers exercising excessive control over migrant domestic workers, rendering them vulnerable to abusive working conditions, in particular non-payment of wages, long working hours, confiscation of their passports, and psychological and physical abuse including sexual violence, treatment that has

intensified during the COVID-19 pandemic". It reiterated its "concern that domestic workers, who are mainly women from Africa and Asia, remain excluded from the protection guaranteed by the Labour Code" (section 5) (CERD/C/LBN/CO/23-24, 1 September 2021, paragraph 24). With regard to the access of migrant domestic workers to justice, the Committee refers to the report *The Labyrinth of justice: Migrant domestic workers before Lebanon's courts*, prepared in 2020 by the non-governmental organization Legal Agenda, in collaboration with the ILO Regional Office for the Arab States. It also notes the information provided to CERD by the Government in its national report concerning the establishment of a central office and a hotline for receiving complaints from migrant domestic workers, and the measures to raise the awareness of these workers of their rights under the labour legislation (CERD/C/LBN/23-24, 29 January 2019, paragraph 200). In this respect, it notes that, in its concluding observations, the CERD indicates that it remains deeply concerned by: (1) the fact that, despite those efforts, many foreign workers, notably domestic workers and in particular women, are unaware of the remedies available to them in the event of a violation of their rights; (2) the existence of obstacles that may hinder foreign workers' access to justice, for example reluctance to file complaints for fear of negative repercussions, such as expulsion from the country; and (3) the fact that perpetrators of violence go unpunished. The Committee also notes that the CERD recommended Lebanon to: (1) take measures to remove barriers to access to justice for foreign workers, notably domestic workers and in particular women; (2) ensure that foreign workers can submit complaints regarding abusive labour practices to independent and effective mechanisms, without fear of suffering negative repercussions; (3) enforce existing protective laws and policies for migrant workers and ensure that all reported cases of abuse against them are investigated and, where appropriate, prosecuted, and that perpetrators are punished appropriately and victims provided with reparation; and (4) ensure that labour inspectors are empowered to examine the working conditions of migrant domestic workers in the homes of private employers (CERD/C/LBN/CO/23-24, paragraphs 26 and 27).

With regard more specifically to the *kafala* (sponsorship) system, the Committee notes the information provided by the Government to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) in response to a list of issues and questions in relation to its sixth periodic report (CEDAW/C/LBN/RQ/6, 18 February 2021). It notes that, following a decision taken in February 2021 by the General Directorate of General Security, employers are prohibited from filing criminal "flight" complaints against domestic workers when they leave their sponsors' homes. The criminal procedure has been replaced by an administrative procedure under which the employer may now file an administrative notification form at a General Security station reporting that the domestic worker has left the employer's home, thereby waiving any civil responsibility arising from the employment relationship. Moreover, the General Directorate of General Security is also prohibited from using in all official records terms such as "flee" or "escape", which have been replaced by the expression "left the workplace" (CEDAW/C/LBN/RQ/6, page 20).

Recalling its previous comments and noting with deep concern that the situation remains unchanged, and that it has even deteriorated due to the economic and health crisis suffered by the country, the Committee urges the Government to:

- (i) take the necessary measures, in cooperation with the social partners, to ensure that migrant domestic workers benefit from full and effective protection, in law and practice, against direct and indirect discrimination on all of the grounds set out in the Convention, including against sexual harassment, and in all areas of their employment, either through the adoption of a specific comprehensive Bill or in the framework of the future Labour Code;***
- (ii) in this context, consider the possibility of including domestic workers in the scope of application of the Labour Code through an amendment to section 7;***
- (iii) ensure that any new rule envisaged to regulate the right of migrant domestic workers to change employer does not in any event impose conditions or restrictions that are likely to***

increase their dependence on their employers and thereby increase their vulnerability to potential abuse and discriminatory practices;

- (iv) provide information on the application and compliance with the decision of February 2021 of the General Directorate of General Security prohibiting employers from filing criminal complaints for “flight”; and***
- (v) improve the procedure for receiving and dealing with complaints by migrant domestic workers, including the hotline and, more generally, ensure that they have effective access to justice.***

Model employment contract. In the absence of a report from the Government, the Committee notes the information concerning women migrant domestic workers provided by the Government in its report to the CEDAW in response to the list of issues and questions in relation to its sixth periodic report (CEDAW/C/LBN/RQ/6, 11 February 2021, page 20). It notes in particular the Government's indication that: (1) on 8 September 2020, the Minister of Labour issued a decree on the standard employment contract of domestic workers, although it has not brought an end to the *kafala* (sponsorship) system; and (2) “[o]n 21 September 2020, attorneys for the Syndicate of Owners of Domestic Worker Recruitment Agencies filed a lawsuit against the Lebanese State and the Ministry of Labour (case No. 24340/2020) before the State Shura Council, which decided to suspend implementation of the minister's decision because of fundamental irregularities” (CEDAW/C/LBN/RQ/6, p. 20). The Committee notes that, during the examination by CEDAW of the report of Lebanon in February 2022, the Government representative indicated, with reference to the model employment contract, that it was intended to achieve uniform working conditions for women domestic workers and provide them with greater protection. She added that the contract was also intended to combat the *kafala* system and, even if its implementation had been suspended, the project had not been abandoned and Lebanon was continuing to work with its international partners, including the ILO (press release of the Office of the United Nations High Commissioner for Human Rights of 18 February 2022). Lastly, the Committee notes the concluding observations of the CEDAW, in which it recommends Lebanon to: (1) amend the Labour Code to extend its protection to domestic workers; (2) strengthen labour inspections to monitor the working conditions of domestic workers effectively and to investigate and punish abuses; (3) ensure that migrant domestic workers have explicit, written terms of employment outlining their specific duties, hours, remuneration, days of rest and other conditions of work, in contracts that are free, fair and fully consented to, together with information on access to complaint mechanisms; and (4) ensure that women migrant domestic workers have adequate access to justice (CEDAW/C/LBN/CO/6, 1 March 2022, paragraph 50). The Committee recalls that the model employment contract on the rights and duties of men and women migrant workers and their employers was prepared in collaboration with the ILO Regional Office for the Arab States in Beirut and that, as the reform of the Labour Code has still not been completed, these workers are still excluded from its scope of application and are not therefore covered by its protective provisions. The Committee notes that, within the framework of its collaboration with the Government, the ILO Office in Beirut reactivated in February 2022 the working group on migrant domestic workers, established with local and international human rights organizations and with the participation of the International Organisation for Migration (IOM) and the Office of the United Nations High Commissioner for Human Rights (OHCHR). The Committee further notes a drastic reduction in the number of migrant domestic workers in the country over the past two years and that, according to the data provided by the Ministry of Labour to the ILO Regional Office, at the end of 2021, only 9,762 new migrant domestic workers had been recruited (compared with 33,075 at the end of 2019 and 67,793 at the end of 2017), and that the total number of such workers with a work permit was 65,825 in 2021 (compared with 184,196 in 2019 and 164,884 in 2017). ***In view of the serious consequences of the COVID-19 pandemic on migrant domestic workers, and particularly on women migrant domestic workers, and the increased risk of vulnerability to discrimination and exploitation that they have faced, and still are facing, the***

Committee requests the Government to take measures without delay to ensure that the model employment contract for men and women migrant domestic workers:

- (i) is adopted and implemented as soon as possible;**
- (ii) establishes decent employment, labour and living conditions, in particular in relation to wages, hours of work, termination of employment, the right of workers to remove themselves in the event of danger, and freedom of movement, the prohibition for employers to retain their identity and residence documents, and their accommodation conditions;**
- (iii) contains no provisions liable to place domestic workers in a situation of vulnerability in relation to discrimination, exploitation and abuse.**

Article 2. Equality of opportunity and treatment for men and women. Occupational segregation. Public service. The Committee recalls that it highlighted substantial gender disparities among higher categories of public employees and requested the Government to examine the causes and actively promote the access of women to a greater number of positions at all levels, including positions of responsibility. It also recalls that it emphasized the low proportion of women in the highest category of the public service (25.4 per cent in 2016). The Committee notes the Government's indication, in its report to the CEDAW, that: (1) the Basil Fleihan Institute of Finance and Economics of the Ministry of Finance offers training opportunities on an equal and ongoing basis to support career paths and trailblazing roles for women, particularly in economic and financial positions and departments; and (2) the proportion of women taking part in these training courses increased from 41.19 per cent in 2017 to 50.6 per cent in 2018 and to 58.7 per cent in 2019 (CEDAW/C/LBN/6, 27 July 2020, paragraph 98). **In the absence of more recent information in this regard, the Committee is bound to reiterate its request to the Government to examine the reasons why women have such low representation among the highest category of public employees and, based on its conclusions, to take measures to eliminate obstacles to gender equality and actively promote the access of women to a greater number of positions at all levels, and particularly higher levels.**

Enforcement. **In the absence of recent information on this subject, the Committee once again requests the Government to:**

- (i) adopt the necessary training and awareness-raising measures to enable labour inspectors to better identify discriminatory practices against workers, including migrant workers, particularly with regard to recruitment (for example by examining vacancies, or the selection procedures used);**
- (ii) ensure that complaints procedures are established that are accessible to workers and based on the principles of confidentiality and protection against reprisals; and**
- (iii) provide information on any cases of discrimination detected by the labour inspection services or brought to the attention of the Ministry of Labour or referred to the courts.**

The Committee is raising other matters in a request addressed directly to the Government.

Madagascar

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1962)

Previous comment

The Committee notes the observations of the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE), received on 1 September 2022.

Articles 1(b) and 2(2)(a) of the Convention. Equal remuneration for work of equal value. Legislation. For several years, the Committee has been emphasizing that the provisions of section 53 of the Labour Code are more restrictive than those of the Convention, as they limit the application of the principle of equal

remuneration for work of equal value to persons engaged in the same job and with the same vocational qualifications. The Committee notes that a draft text to revise the Labour Code has been prepared by the Government and was forwarded to the Office in February 2022 for technical comments. The Office suggested that section 53(1) of the Labour Code should be reworded as follows: “[For equal work or work performed under equal conditions, and for work of a different nature but nevertheless of equal value], wages shall be equal for all workers irrespective of their origin, colour, national extraction, sex, age, trade union membership, opinion or status under the conditions set out in the present Chapter”. The Committee also notes the Government’s indication in its report that the amendment of section 53 of the Labour Code was discussed with the social partners during a tripartite consultation held in March 2021. The Government adds that a preliminary draft of the Bill to issue the new Labour Code was submitted in September and October 2021 to the National Labour Council (CNT) with a view to hearing the views of the social partners, and then in December 2021 and January 2022 to the Commission on the Reform of Business Law (CRDA). Moreover, with reference to the observations by the Autonomous Trade Union of Labour Inspectors (SAIT) received in 2021, the Committee recalls that, while the Convention applies to all workers, it exclusively covers wage inequalities or remuneration gaps between men and women for work of equal value. ***The Committee expresses the firm hope that the Labour Code will be amended in the near future and that the new wording of section 53 will give full expression to the principle of equal remuneration, not only for equal work or work performed under equal conditions, but also for work of an entirely different nature that is of equal value overall. It requests the Government to provide information on this subject and on any other measures adopted or envisaged to promote and ensure in practice equal remuneration for men and women for work of equal value.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

Previous comment

The Committee notes the observations of the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE), received on 1 September 2022.

Article 1 of the Convention. Protection against discrimination. Grounds of discrimination. Legislation. For several years, the Committee has been emphasizing that neither the Labour Code nor the Civil Service Regulations prohibit discrimination on all of the grounds enumerated in the Convention. Discrimination on the basis of colour and social origin is not prohibited by the Labour Code (see section 261) and discrimination on the basis of race, colour and social origin is not prohibited by the Civil Service Regulations (see section 5). The Committee notes the Government’s indication in its report that a preliminary draft Bill to issue a new Labour Code has been submitted to the National Labour Council (CNT) and contains provisions that are in conformity with the Convention, as well as definitions of the concepts of direct and indirect discrimination and sexual harassment at the workplace. It notes, however, that the Government did not provide a copy of this draft text with its report nor has it provided the envisaged new wording of section 261 of the Labour Code. In this regard, the Committee observes that, in the Memorandum of technical comments on the draft revision of the Labour Code that it provided to the Government in March 2021, the International Labour Office (ILO) indicated that, in the version that had been submitted to it for comment in February 2021, the proposed revision of the Labour Code did not affect section 261 of the current Labour Code. It also notes the Government’s indication that new General Regulations for Public Employees (SGAP) are being prepared, with a view to harmonizing the provisions of the Civil Service Regulations and the General Regulations for Contractual Public Employees. The Government specifies that, in accordance with section 14 of the draft SGAP, “there is no discrimination on the basis of gender, religion, opinion, origin, ancestry, political conviction,

disability, membership or not of a trade union". However, the Committee notes with **concern** that this provision still does not prohibit discrimination on the basis of race, colour and social origin and does not define indirect discrimination. The Committee also notes the general information provided by the Government on the penalties envisaged for violations of section 261 of the Labour Code and the indication that information is still being collected on administrative decisions relating to the prohibition of discrimination. In this regard, the Committee recalls that the monitoring and enforcement of anti-discrimination laws by the courts is an important aspect of the effective implementation of the Convention. It is therefore necessary to collect and publish detailed information on the number, nature and outcome of complaints to the courts and administrative bodies in order to assess the effectiveness of procedures and mechanisms (2012 General Survey on the fundamental Conventions, paragraphs 868 and 871). **The Committee therefore requests the Government to: (i) provide precise updated information on the current revision of the Labour Code, and particularly section 261, to ensure that it explicitly prohibits discrimination on all of the grounds enumerated in the Convention, including colour and social origin, and that it explicitly covers indirect discrimination; (ii) take the necessary measures to amend section 14 of the draft General Regulations for Public Employees to ensure that it explicitly prohibits discrimination on all of the grounds enumerated in the Convention, including race, colour and social origin, and that it includes a definition of discrimination that explicitly encompasses indirect discrimination; and (iii) provide detailed information on the interpretation and effect given by the courts in practice to section 261 of the Labour Code and section 5 of the Civil Service Regulations (or section 14 of the General Regulations for Public Employees, if they have been adopted), with a copy of any court or administrative decisions handed down under these provisions.**

Discriminatory job vacancy announcements. In its previous comments, the Committee noted the Government's indication that it was envisaging the adoption of provisions to regulate, in conformity with the requirements of the Convention, vacancies advertised on the radio or through notices in public places, which impose affiliation to a certain religion as a condition for recruitment or specify that the job is solely for men or women. It notes that, although the Government recognizes that this is a common discriminatory practice in all sectors, it still does not refer to any specific measures that have been adopted or are envisaged to regulate this practice and does not indicate the role played by the labour inspection services in this regard. **The Committee therefore expresses the firm hope that the Government, in collaboration with employers' and workers' organizations, will take all the necessary measures to ensure the application in practice of the national legislation and prohibit any form of direct or indirect discrimination on all of the grounds enumerated in the Convention, including religion and sex, in job vacancy announcements, including in advertisements on the radio or notices in public places. It once again requests the Government to provide information on any progress achieved in this regard.**

Domestic workers. The Committee previously invited the Government to take the necessary measures to ensure that the provisions of the Labour Code apply in practice to men and women domestic workers (some of whom work without a written employment contract) and to provide detailed information on the number and outcome of the controls carried out by the labour inspection services on this subject. In this connection, it notes that, in its Memorandum of technical comments of March 2021 referred to above, the Office recommended specifying in section 1 of the Labour Code that it applies to men and women domestic workers, particularly in relation to its provisions respecting non-discrimination and working conditions. The Committee welcomes the indication by the Government that, on 11 June 2019, Madagascar ratified the Domestic Workers Convention, 2011 (No. 189). It also notes the Government's reiterated indication that domestic workers enjoy the same rights as other workers, as the labour legislation is applicable to them. The Committee notes with **regret** that, according to the Government, no statistical data is available on the number and outcome of the controls carried out by labour inspectors concerning the working conditions of domestic workers. The Government specifies that the legislation in force does not yet permit effective intervention by labour inspectors in

this regard, due in particular to the principle of the inviolability of the home, which makes it impossible for labour inspectors to enter the homes of private individuals who employ domestic workers. ***The Committee expresses the firm hope that the Government will take all the necessary measures to ensure that men and women domestic workers benefit, not only in law, but also in practice, from the protection afforded by the provisions of the Labour Code, particularly in relation to non-discrimination and working conditions. It therefore requests the Government to: (i) provide specific information on any measures adopted or envisaged for this purpose; and (ii) provide information on any measures adopted or envisaged to facilitate the access of labour inspectors to the homes of private individuals employing men and women domestic workers.***

The Committee is raising other matters in a request addressed directly to the Government.

Malawi

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1965)

Previous comment

The Committee notes the observations of the International Organisation of Employers (IOE) received on 25 August 2022, which reproduce the statements made in June 2022 before the Conference Committee on the Application of Standards (CAS) by the Employer spokesperson and the national employers' representative, as well as the observations of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), received on 1 September 2022.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

The Committee notes the detailed discussion which took place at the 110th Session of the CAS in May–June 2022 concerning the application of the Convention by Malawi, as well as the [conclusions adopted](#). The Committee notes with **interest** the prioritization by Malawi of the follow-up to be given to the CAS conclusions and the Committee's comments. It also notes the multidisciplinary technical assistance provided by the ILO Decent Work Team for Eastern and Southern Africa (DWT-Pretoria) and the ILO Country Office for Zambia, Malawi and Mozambique (CO-Lusaka) in July and August 2022.

Article 1(1)(a) of the Convention. Discrimination based on sex. Sexual harassment. In its previous comment, the Committee made various requests following allegations of gender-based violence and harassment (including rape and sexual harassment) occurring in tea plantations and macadamia nut orchards.

The Committee takes note that the CAS noted with deep concern the trade unions' allegations of systematic sexual violence and harassment of women, including the rape, assault and discrimination suffered by women workers on tea and macadamia nut plantations. In its conclusions, the CAS urged the Government to take all necessary measures, in consultation with the social partners, to: (1) ensure existing legislation on sexual harassment is in line with the Convention; (2) organize dedicated tripartite discussions on the issue of sexual harassment and violence in the workplace with a view to taking further practical and concrete measures to ensure the effective protection of workers in this regard in law and practice; (3) ensure effective access to and the effective functioning of national judicial and non-judicial mechanisms that consider allegations of breach of workers' rights on grounds of discrimination, including sexual harassment and violence, and provide adequate legal remedies to victims; and (4) continue supporting existing initiatives undertaken by the Malawi Human Rights Commission and the Department of Human Resources Management and Development, including awareness-raising

campaigns and the dissemination of the Sexual Harassment Workplace Policy and related guidelines to ensure that employers develop and implement effective workplace harassment policies.

Evaluation of the existing legal framework on sexual harassment and its alignment with the Convention.

The Committee notes the Government's indication in its report that a review of the existing legal and policy frameworks on sexual harassment in the tea sector covering existing gaps, scope of application, protection and prevention, enforcement and remedies, guidance, training and awareness-raising is being finalized with the technical assistance of the ILO and the results will be shared with the Committee. The Government also provides information about an agreement reached with the social partners to amend the Gender Equality Act (GEA) of 2013 in order to explicitly include hostile work environment in the definition of sexual harassment. Moreover, the inclusion of legal provisions on sexual harassment in the Employment Act, 2000 and the Occupational Safety Health and Welfare Act, 1997, is under consideration. In this last respect, the Committee refers to its detailed comments under the Occupational Safety and Health Convention, 1981 (No. 155), the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) and the Safety and Health in Agriculture Convention, 2001 (No. 184). Recalling that sexual harassment is a serious manifestation of sex discrimination, the Committee emphasizes that the review of the legal and policy framework on sexual harassment should take place in the context of a broader review of the legal and policy framework on discrimination in general.

Regarding the amendment of section 6(1) of the Gender Equality Act of 2013 to ensure that the term "reasonable person" in the definition of sexual harassment no longer refers to the harasser, but to an outside person, the Committee notes the Government's explanation that, under Malawian law, the term "reasonable person" provides an objective test that goes beyond the harasser. The Committee considers that the test of "reasonableness" gives inadequate weight to the experience of the victim. It recalls that sexual harassment includes: (1) (quid pro quo): any physical, verbal or non-verbal conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men, which is unwelcome, unreasonable, and offensive to the recipient; and a person's rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person's job; and (2) (hostile work environment): conduct that creates an intimidating, hostile or humiliating working environment for the recipient. The lived experience of the recipient, that is to say the victim of sexual harassment, and the impact that third party's conduct has on her/him should thus form the basis of any assessment aimed at ascertaining whether or not sexual harassment occurred.

Tripartite discussion on the issue of sexual harassment and violence in the workplace. The Government also indicates that the question of sexual harassment has been included on the agenda of the Tripartite Labour Advisory Council (TLAC), which is expected to provide direction on how the Ministry of Labour's role in addressing violence and harassment in the workplace can be strengthened.

Capacity-building and awareness-raising on sexual harassment. The Committee notes that the Malawi Human Rights Commission (MHRC) is developing a model sexual harassment workplace policy with a view to promoting the adoption of sexual harassment policies and preventing the occurrence of sexual harassment in both the public and private sectors. At the same time, the Department of Human Resource Management and Development continues to promote the adoption of sexual harassment workplace policies in the public sector. The Committee furthermore notes that the MHRC undertook a situation analysis on engaging the private, public, and informal sector on addressing sexual gender-based violence (SGBV) and sexual harassment in the workplace. The analysis revealed that there is little knowledge about sexual harassment among enforcement officials, journalists and members of cooperatives, which hinders the realization of rights by victims as well as their access to justice. Consequently, the MHRC is developing an action plan to enhance awareness and build capacity to address sexual harassment effectively. The Government also indicates that the Ministry of Gender, Children, Community Development and Social Welfare conducted training sessions for police officers, chiefs (traditional leaders), court officials and the media on the enforcement of the Gender Equality Act.

In addition, the Government, in cooperation with the ILO, has planned to organize a strategic compliance workshop for all labour inspectors with a view to strengthening their capacity to prevent, identify and address cases of violence and sexual harassment in employment and occupation.

Access to judicial and quasi-judicial mechanisms and legal remedies for victims of discrimination, including sexual harassment. The Government states that action is being taken to enhance collaboration between all stakeholders – namely, the Ministry of Gender and the Ministry of Labour, the social partners, the courts, the MHRC, the police and relevant civil society organizations – with a view to addressing challenges related to access to legal remedies, as well as to enhancing cooperation with the social partners and relevant civil society organizations for the purpose of sharing information in order to jointly address these challenges. The Government also indicates that the Malawi Congress of Trade Unions (MCTU) has conducted investigations into alleged cases of workplace violence and harassment and reported them to the MHRC for action. The MHRC recorded 23 cases of sexual violence and harassment between January 2021 and April 2022. The Committee notes that no details are provided on the actions being taken to address challenges related to access to legal remedies or on the challenges identified. The Committee recalls that a number of obstacles may in practice impede victims' access to justice, including lack of an appropriate legal framework, lack of awareness of rights, lack of confidence in or absence of practical access to procedures, fear of reprisals, issues related to representation and standing, the burden of proof, fear of victimization or physical, financial and linguistic obstacles, such as procedural costs and the lack of physical access to the remedial mechanisms when those are located only in main urban centres (see [2012 General Survey on the fundamental Conventions](#), paragraphs 870 and 884). The Committee also recalls that allowing trade unions to bring complaints is important as it reduces the risk of reprisals and is also likely to serve as a deterrent to discriminatory action (see [2012 General Survey on the fundamental Conventions](#), paragraph 886).

The Committee notes that, in its observations, the IUF refers to statements by different parties acknowledging that cases of trading sex for favours, or even for work, are found in the tea estates and are one of the factors contributing to the transmission of HIV and AIDS at work. The IUF also reports that the case filed by a London-based law firm on behalf of Malawian women alleging that they had been subjected to gender-based violence and harassment (including rape and sexual harassment) on tea plantations and macadamia nut orchards was settled out of court on a confidential basis without admission of liability. The Committee notes that, according to the IUF, sexual harassment on Malawi's plantations is an endemic problem. The IUF states that it appreciates the Government's commitment to addressing gender-based violence and harassment and other forms of discrimination in the workplace working closely with the social partners. It shared its concern about the lack of data on the effectiveness of the Malawian court system to deal with cases of sexual harassment. The IUF emphasized that trade unions must be actively involved in the design, negotiation, implementation and monitoring of any policies to eliminate gender-based violence and harassment in the world of work and clearly indicated its commitment to take part in any relevant and dedicated tripartite meetings in Malawi. Furthermore, it underscored the need for independent research on the causes of gender-based violence and harassment on Malawi's tea plantations, including work arrangements and non-standard forms of work which make women vulnerable.

The Committee notes that, in its response to the IUF's observations, the Government refers to several cases of sexual harassment addressed by the courts. The Government also reiterates its commitment to engage with workers' and employers' organizations to address sexual harassment and violence. It furthermore indicates that, once the findings of the "review of the existing legal and policy frameworks on sexual harassment in the tea sector" are validated with the relevant stakeholders, including the social partners, it hopes to use them to strengthen the policy and legislative framework on violence and harassment in all sectors of the economy in general and in the tea sector in particular. Should the report prove insufficiently comprehensive, the Government will request further ILO assistance.

The Committee notes that the African Commission on Human and Peoples' Rights (ACHPR) recommended that Malawi "should take steps to pass a law against sexual harassment" (Concluding Observations and Recommendations, adopted at the 70th session of the ACHPR, 2022, paragraph 86).

While welcoming the initiatives undertaken by the Government to strengthen the national legal and policy framework on sexual harassment at work, the Committee remains concerned by the alleged pervasiveness of the problem, especially on plantations, and requests the Government to develop a detailed road map, in cooperation with the social partners, outlining key actions and a precise timeline in order to allow for monitoring and evaluating progress. In particular, it requests the Government:

- (i) to move expeditiously towards the alignment of the national legal and policy framework with the Convention in cooperation with the social partners, including by amending section 6(1) of the Gender Equality Act of 2013 to explicitly include hostile work environment harassment in the definition of sexual harassment and by reviewing the test of "reasonableness", and to provide information on all developments in this respect as well as on the results and recommendations of the evaluation exercise undertaken;***
- (ii) to supply details on the action being taken to address challenges related to access to legal remedies for victims of discrimination in employment and occupation, including sexual harassment, in collaboration with the social partners and other relevant stakeholders, including information on the challenges identified;***
- (iii) to step up its efforts to increase the capacity of the competent authorities, including labour inspectors, to prevent, identify and address cases of discrimination in employment and occupation, including sexual harassment, as well as workers' awareness of available remedies, to provide information on the number of cases of sexual harassment in the public and private sectors dealt with by the courts and the MHRC or detected by labour inspectors, the remedies granted to victims and the sanctions imposed on perpetrators. The Government is also asked to provide information on the action plan on awareness-raising being developed by the MHRC;***
- (iv) to continue to promote social dialogue on the issue of sexual harassment at work and how best to prevent and address it in practice, and to provide information on any recommendation formulated by the Tripartite Labour Advisory Council (TLAC) in this respect and the steps taken as a result, including information on any action taken by the TLAC to promote the adoption of a sexual harassment workplace policy and the directions provided on how the Ministry of Labour's role in addressing violence and harassment in the workplace can be strengthened, or information on the timeline for discussing the adoption of these directions;***
- (v) to provide information on the uptake of the model Sexual Harassment Workplace Policy developed by the MHRC and its impact; and***
- (vi) to continue to supply information on relevant initiatives by the Malawi Human Rights Commission and the Department of Human Resources Management and Development.***

The Committee also encourages the Government to consider undertaking a study, in cooperation with workers' and employers' organizations, on the underlying causes and risk factors for sexual harassment at work, placing the problem within the broader context of discrimination with a special focus on tea plantations and macadamia nut orchards, in order to design an appropriate strategy to tackle the problem at its roots.

The Committee is raising other matters in a request addressed directly to the Government.

Nicaragua

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1967)

Previous comment

Article 1(1)(a) of the Convention. Discrimination on the basis of sex. Sexual harassment. The Committee takes note of the labour legislation provisions (Labour Code, section 17(p)) and in the field of criminal justice (Criminal Code, section 174, as amended by Act No. 779 against violence towards women) which sanction sexual harassment and *quid pro quo* sexual harassment. The Committee also notes from the Government's report that: (1) in October 2020, the Supreme Court of Justice adopted the "Protocol to prevent and address labour and sexual harassment in the Nicaraguan legal system", which aims to prevent, address and eliminate all forms of violence arising from labour and sexual harassment throughout the legal system; (2) the Ministry of Labour has been implementing processes to address labour complaints, including complaints of labour harassment, with mechanisms providing immediate action and prompt investigation by the labour inspectorate, in strict compliance with the labour legislation, and without prejudice to action that the workers affected may take through appropriate judicial channels; (3) between 2018 and 2021 the Ministry of Labour received 111 complaints of ill-treatment, labour and sexual harassment (in 40, the complaint was not upheld; 36 were accepted; 15 were settled with an agreement between the parties; 5 were withdrawn; and 4 went to criminal proceedings); (4) the Ministry of Labour has a Technical Gender Unit, which promotes equality of treatment and opportunity for women and men; and (5) between April 2020 and March 2021, none of the 19 labour courts of the first instance recorded a complaint for sexual harassment at the workplace. The Committee welcomes the initiative taken by the Supreme Court of Justice and observes that the above-mentioned Protocol defines sexual harassment as including harassment that is assimilated to blackmail (*quid pro quo* harassment) as well as harassment derived from a hostile work environment.

The Committee requests the Government to:

- (i) indicate the extent to which the provision of the Labour Code (section 17(p)) also covers the "hostile work environment";**
- (ii) provide details of the penalties imposed where complaints submitted to the Ministry of Labour are upheld and identified as acts of sexual harassment;**
- (iii) provide details of any administrative complaint or legal action filed with the labour or criminal courts under the provisions of the Labour Code or Criminal Code in respect of sexual and *quid pro quo* harassment; and**
- (iv) continue to provide information on all measures adopted regarding awareness-raising and prevention of sexual harassment.**

Discrimination on the basis of political opinion. The Committee notes that the Government: (1) refers to the Political Constitution and its provisions on non-discrimination on grounds of political creed, freedom of expression and equality in the enjoyment and exercise of political rights; (2) reports that none of the labour lawsuits filed against the central State ministries arise from political discrimination against civil or public servants, who enjoy freedom to take up the ideas of any political ideology, as they see fit; (3) in the period between April 2020 and March 2021, the labour courts heard no cases of violations of fundamental rights related to discrimination on ideological or political grounds; (4) the Office of the Procurator for Human Rights is the national institution that promotes, defends and safeguards the constitutional rights of citizens, and conducts, by virtue of Act No. 212 of 1995, *ex officio* investigations or investigations at the request of the party, of complaints of alleged human rights violations (the Government reports that no complaints of pressure or reprisals for participation in any type of demonstration have been received, and that during the unsuccessful 2018 coup d'état, 47 public

servants denounced curtailed freedom of movement); and (5) in 2020, the Office of the Procurator for Human Rights initiated a direct approach and proximity strategy for Nicaraguans, promoting human rights education, and the receipt of complaints (the Government reports that more than 3,000 visits to urban and rural areas have been undertaken, and no complaints on grounds of political opinion have been received from the public).

The Committee notes with **concern** the serious situation of political discrimination in the country, as reflected in the reports from United Nations bodies and the Inter-American Human Rights System. This context explains the grounds that led to the adoption of resolution 49/3 on the promotion and protection of human rights in Nicaragua, adopted by the United Nations Human Rights Council on 31 March 2022, in which the Council, among other matters: (1) expressed grave concern “at the violations of civil and political rights in the context of the electoral process of 2021, in contravention of the obligations of Nicaragua to uphold the right of every citizen to take part in the conduct of public affairs and to vote and be elected in genuine periodic elections” as well as at “the adoption and use of legal provisions that explicitly aim, or may be used, to restrict the ability of Nicaraguan citizens to participate in the political process;” (2) condemned “the continuation of arbitrary detentions and new arbitrary detentions, including in the context of the electoral process of 2021, of, inter alia, opposition pre-presidential candidates and political leaders, human rights defenders, business people, journalists, peasant and student leaders and members of civil society organizations, and expressing grave concern for their integrity, treatment and detention conditions, including health conditions, which may constitute torture or cruel, inhuman or degrading treatment or punishment, and recognizing the particular vulnerability of older and sick persons, and women and girls, in detention”; (3) expressed “grave concern at the deterioration of democracy and the situation of human rights in Nicaragua, in particular with regard to the enjoyment of civil and political rights, continuing reports of human rights violations and abuses”; and (4) decided to “establish, for a period of one year, a group of three human rights experts on Nicaragua, to be appointed by the President of the Human Rights Council”, which, among other activities, will “conduct thorough and independent investigations into all alleged human rights violations and abuses committed in Nicaragua since April 2018, including the possible gender dimensions of such violations and abuses, and their structural root causes” (A/HRC/RES/49/3, preambular paragraphs 9 and 12, substantive paragraphs 1 and 14(a)). The Committee also notes that the Human Rights Committee (United Nations Covenant on Civil and Political Rights (CCPR)) refers to a generalized repression to restrain the people (CCPR/C/NIC/CO/4, 3 November 2022, paragraphs 31, 35 and 37), and that the United Nations Committee on Economic, Social and Cultural Rights, in its concluding observations on the fifth periodic report of Nicaragua, expressed deep concern to note allegations that persons who oppose or criticize the Government are subjected to discrimination on the basis of political opinion that affects the exercise and enjoyment of their economic, social and cultural rights, in particular their right to work and their access to health services (E/C.12/NIC.CO/5, 11 November 2021, paragraph 17). Lastly, the Committee notes the press release from the Inter-American Commission on Human Rights (IACHR) of 4 November 2022 which notes the “recrudescence of repression and persecution of political opponents”.

In the same vein, the Committee notes with **concern** that the Inter-American Court of Human Rights adopted on 22 November 2022 a resolution on provisional measures (Matter of Juan Sebastián Chamorro et al. and 45 inmates in 8 prisons, regarding Nicaragua) in which it declared the State of Nicaragua to be in permanent contempt of court for failing to comply with the provisional measures, whose purpose is precautionary and protective, in violation of its obligations under the American Convention on Human Rights. ***The Committee considers that a climate of violence, insecurity and intimidation, as described by the United Nations bodies or the IACHR is propitious for serious acts of discrimination in employment and occupation against persons who express their political opinion. The Committee urges the Government to adopt the necessary measures to comply with its observations on matters of non-discrimination in employment and occupation, and requests the Government to report***

on: (i) any additional measure taken to eliminate discrimination on political grounds and provide adequate protection for workers in the event of discrimination on the basis of political opinion; and (ii) the outcome of any investigation conducted into complaints against the administrative or judicial authorities for acts of discrimination on the basis political opinion.

Discrimination on the basis of race. Indigenous peoples. The Committee notes the Government's indication that the global registry of enrolment in higher education and vocational training for the 2020 and 2021 period shows a total of 308,699 students, of whom 49,911 were from indigenous or Afro-descendent peoples and of whom more than half were women. The Government provides detailed statistics disaggregated by sex, region and university, and reports on measures taken in them to prevent and eradicate discrimination in education. The Committee also notes the concluding observations of the United Nations Committee on the Elimination of Racial Discrimination (CERD), in particular that the Committee: (1) "urges the State to take the urgent action required to guarantee effective protection and respect for the rights of indigenous and Afro-descendent peoples, particularly in the Atlantic Coast region" and "urges the State Party to continue its efforts to effectively promote social inclusion, reduce the incidence of poverty and inequality affecting members of indigenous or Afro-descendent peoples, including through the adoption of specific or affirmative action to eliminate the structural discrimination that they continue to face"; and (2) "recommends that the State Party combat the multiple forms of discrimination faced by indigenous and Afro-descendent women, including through the incorporation of a gender perspective in all policies and strategies against racial discrimination". Equally, the CERD recommend that Nicaragua adopt measures ensuring that indigenous and Afro-descendent women have access to all of their rights, including education, employment and health, taking account of cultural and linguistic differences" (CERD/C/NIC/CO/15-21, 30 August 2022, paragraphs 17 and 39). **In this respect, the Committee requests the Government to continue reporting on all measures adopted or envisaged to protect indigenous and Afro-descendent peoples against racial discrimination in employment and occupation.**

Article 2. National policy on equality of opportunity and treatment. Public service and private sector. With regard to its previous comments, the Committee welcomes and notes the detailed information provided by the Government on: (1) the legal framework recognizing equality as the starting point for promoting and obtaining non-discrimination; (2) various initiatives to generate employment for women; (3) statistical data on the employment of men and women in the public sector (in 2021, 59 per cent were women; in the judiciary, more than 60 per cent of administrative and managerial posts were occupied by women); (4) the constitutional decision on equality between men and women in posts assigned by popular election; (5) many programmes, strategies, plans and projects to eliminate gender stereotypes, and action to provide protection against discrimination in early childhood, adolescence and youth; and (6) continuous training processes for public servants in the area of legislation on equality. **The Committee requests the Government to continue reporting on the outcomes of the many actions taken relating to the national policy of equality of opportunity and treatment.**

Enforcement. Labour inspection. The Committee notes the number of inspections undertaken relating to equality and non-discrimination at work as reported by the Government. **The Committee requests the Government to provide information on the type of violations identified relating to the application of the Convention, the corrective measures introduced and the penalties imposed.**

In light of the situation described above, the Committee notes with deep concern the climate of violence, insecurity and intimidation in the country which is propitious for serious acts of discrimination in employment and occupation against persons who express their political opinion. In this context, the Committee notes the arbitrary detentions of political leaders, human rights defenders, business people, journalists, peasant and student leaders and members of civil society organizations. It further notes the continuing reports of human rights violations and abuses, including gender-based discrimination. The Committee considers that this case meets the criteria set out in paragraph 114 of its General Report to be asked to come before the Conference.

[The Government is asked to supply full particulars to the Conference at its 111th Session and to reply in full to the present comments in 2023.]

Pakistan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2001)

Previous comment

Legislative developments. Provinces. The Committee notes with **interest** the recent enactment of numerous labour laws in Balochistan, Punjab and Sindh provinces, such as the Sindh Payment of Wages Act, 2015 (Sindh Act No. VI of 2017), the Sindh Minimum Wages Act, 2015 (Act No. VIII of 2016), the Punjab Minimum Wages Act, 2019 (Act No. XXVIII of 2019), the Balochistan Minimum Wages Act, 2021 (Act No. X of 2021), the Balochistan Payment of Wages Act, 2021 (Act No. XIII of 2021), as a result of the 18th Constitutional Amendment adopted in 2010 devolving the subject of labour to the provinces while the responsibility of coordination of labour-related issues still lies with the Federal Government. **The Committee asks the Government to continue to provide information on any legislative developments concerning wages and equal remuneration for men and women which give effect to the Convention.**

Articles 1–4 of the Convention. Assessing and addressing the gender pay gap. The Committee notes that, according to the Global Wage Report 2018/19 published by the ILO, the mean hourly gender pay gap in Pakistan is 34 per cent and women account for almost 90 per cent of wage earners in the bottom 1 per cent but just 9 per cent in the top 1 per cent. **The Committee asks the Government to collect and compile information disaggregated by sex, on the levels of remuneration of men and women, if possible, by sector of the economy or occupational category, and provide them together with any available information on the gender pay gap. It further asks the Government to take the necessary measures to address the gender pay gap, in particular measures to address gender occupational segregation, and refers in this regard to its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).**

Articles 1(a) and 2(2)(a). Definition of remuneration. Legislation. The Committee notes that section 2(1)(xix) of the Sindh Payment of Wages Act, 2015 and section 2(o) of the Balochistan Payment of Wages Act, 2021, define “wages” as including “basic pay and statutory and non-statutory allowances”, but excludes any contribution paid by the employer to any pension fund or provident fund, any travelling allowance or the value of travelling concession, any sum paid to defray special expenses, any annual bonus or any sums payable on discharge. In its previous observations, the Committee also noted that the Khyber Pakhtunkhwa Payment of Wages Act, 2013 (Act No. IX of 2013) had a similar definition of “wages”. The Committee recalls that *Article 1(a)* of the Convention, for the purpose of implementing the principle of equal remuneration for men and women for work of equal *value*, provides a broad definition of “remuneration” which includes not only the ordinary, basic or minimum wage or salary, but also “any additional emoluments whatsoever payable directly or indirectly by the employer to the worker and arising out of the worker’s employment”. This definition also captures payments or benefits whether received regularly or only occasionally. It covers among others cost-of-living allowances, dependency allowances, travel allowances, housing and residential allowances, vacation allowances as well as allowances paid under social security schemes financed by the undertaking or industry concerned (see the [2012 General Survey on the fundamental Conventions](#), paragraphs 686, 687 and 691–692). **In order to fully apply the principle of equal remuneration for men and women for work of equal value, the Committee requests the Government to ensure that the provincial governments of Balochistan, Khyber Pakhtunkhwa and Sindh provinces: (i) take into account all the elements included in the definition of “remuneration”, in accordance with Article 1(a) of the Convention, including emoluments “payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker’s employment”; and (ii) envisage amending the above laws accordingly.**

Articles 1(b) and 2(2)(a). Equal remuneration for work of equal value. Legislation. The Committee notes with **interest** that the Balochistan Payment of Wages Act, 2021, includes provisions on equal remuneration for the same work or work of a similar nature and work of equal value (section 7) and defines work of equal value (section 2(p)). The Committee notes however that other provincial labour laws previously adopted, such as the Khyber Pakhtunkhwa Payment of Wages Act, 2013, and the Sindh Payment of Wages Act, 2015, do not contain any provisions on equal remuneration for men and women for work of equal value. Further, the Committee notes that section 21 of the Punjab Minimum Wages Act, 2019, and section 18 of the Sindh Minimum Wages Act, 2015, prohibit wage discrimination based on sex. **The Committee urges the Government to ensure that the Khyber Pakhtunkhwa Payment of Wages Act, 2013 and the Sindh Payment of Wages Act, 2015, as well as other any other provincial acts on wages, are amended to give full expression the principle of equal remuneration for men and women for work of equal value. The Committee asks the Government to provide information on the implementation of the Balochistan Payment of Wages Act, 2021, and its impact on the elimination of the gender wage gap in the province.**

Articles 2 and 3. Objective job evaluation. The Committee recalls that, in its previous observation, it encouraged the Government to take measures to ensure that objective job evaluation on the basis of the work performed is integrated into any new provincial labour legislation. In that regard, the Committee notes with **interest** that the Balochistan Minimum Wages Act, 2021, defines “job appraisal scheme” as “the scheme evolved and introduced by the industry concerned with the approval of the Government for objective appraisal for determination of wage differentials without regard to sex, to ensure the enforcement of the principle of equal remuneration for male and female workers for work of equal value”. It also provides that a comprehensive objective job evaluation scheme “shall in particular take care of gender equality in matters regarding equal remuneration for male and female workers for work of equal value” (section 17). The Committee further notes the Government’s indication that the reform of the Minimum Wages Ordinance, 1961, is planned. Concerning the Government’s indication that job evaluation is the prerogative of the employer, the Committee recalls that objective job evaluation is concerned with assessing the relative value of jobs with varying content on the basis of the work to be performed, not the performance of an individual worker carrying out his or her job. It is a systematic process which, through analysing the content of different jobs, gives a numerical value to each job. Two jobs found to have the same overall numerical value are entitled to equal remuneration. Objective job evaluation is concerned with evaluating the job and not the individual worker (see the 2012 General Survey on the fundamental Conventions, paragraphs 696 and 700). **The Committee requests the Government: (i) to take measures to ensure that the use of objective job evaluation methods based on work performed is provided for in the provincial labour legislation of Islamabad Capital Territory, Khyber Pakhtunkhwa, Punjab and Sindh; and (ii) to provide information on any developments in this regard, including on measures taken to develop and implement objective job appraisal methods for use in both the public and private sectors. It also asks the Government to provide information, including statistical data, on the implementation of the Balochistan Minimum Wages Act, 2021, sections 2(i) and 17 in practice.**

The Committee is raising other points in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

Previous comment

Article 1 of the Convention. Protection of workers against discrimination. Legislative developments. The Committee recalls that following the 18th constitutional amendment of 2010, which devolved the power to enact laws related to labour from the federal Parliament to the provincial governments, Pakistani

provincial governments adopted a series of laws such as the Balochistan Payment of Wages Act (2021), the Balochistan Minimum Wages Act (2021), the Punjab Minimum Wages Act (2019), the Sindh Minimum Wages Act (2015) and the Sindh Payment of Wages Act (2015) which prohibit discrimination in remuneration on various grounds, including but not limited to, religion, caste, ethnic background, colour, creed and sect. The Committee welcomes the adoption of these laws, which constitutes progress in the application of the Convention. It notes, however, that the provincial laws do not include all of the prohibited grounds of discrimination set out in *Article 1(1)(a)* of the Convention as they notably omit the grounds of national extraction and social origin. The Committee also notes that the newly adopted laws do not appear to apply to all aspects of employment, namely, access to vocational education and training, employment and particular occupations, and terms and conditions of employment as provided for in *Article 1(3)* of the Convention. The Committee reiterates that clear and comprehensive definitions of what constitutes discrimination in employment and occupation are instrumental in identifying and addressing the many manifestations in which it may occur (see [2012 General Survey on the fundamental Conventions](#), paragraph 743). Recalling that it had noted in its previous observation that political opinion was not included as a prohibited ground of discrimination by the Khyber Pakhtunkhwa Provincial Government in 2013, the Committee notes that, in response, the Government has highlighted the inclusion of “political affiliation” in laws adopted in Khyber Pakhtunkhwa and Sindh provinces. The Committee notes that protection against discrimination on the basis of political opinion is broader than protection against discrimination based on “political affiliation” (see 2012 General Survey on the fundamental Conventions, paragraph 805). ***The Committee requests the Government to take the necessary measures to ensure, including through the tripartite consultation committee established at the federal level, that all of the labour laws adopted by the provinces include provisions explicitly defining and prohibiting direct and indirect discrimination, applying to all aspects of employment and occupation, including at the recruitment stage, and covering all workers and at least all of the grounds set out in Article 1(1)(a) of the Convention, including political opinion. The Committee also requests the Government to provide information on any legislative developments in this regard.***

Article 1(1)(a). Discrimination based on sex. Sexual harassment. The Committee notes from the Government’s report that all five Pakistani provinces have laws against harassment of women at the workplace. It further notes that the Protection against Harassment of Women at the Workplace Act (2010), which covers Islamabad Capital Territory, Khyber Pakhtunkhwa and Sindh provinces, requires all public and private organizations to adopt an internal code of conduct and to constitute a committee to adjudicate complaints against harassment. The Committee notes with **interest** the enactment of the Balochistan Protection Against Harassment of Women at Workplace Act (2016) which covers all forms of sexual harassment (quid pro quo and hostile work environment) committed not only by a person with authority but also by a colleague and a person or persons with whom women workers have contact through their work. The Committee also notes from the Government’s report that the Government indicated that the Federal Ombudsman Secretariat for Protection against Harassment of Women at Workplace received 441 complaints and the Punjab and Sindh provincial Ombudsmen for Protection against Harassment of Women at Workplace received 98 and 350 complaints, respectively. However, it notes that the time frame in which those complaints were submitted remains unclear. The Committee also welcomes the information provided by the Government regarding the activities organized by the Federal Ombudsman and the Provincial Ombudsmen (Punjab and Sindh) to prevent and address sexual harassment, such as the awareness-raising activities for employers, workers and civil society representatives. ***The Committee asks the Government to consider extending to men the Protection Against Harassment of Women at the Workplace Act (2010), the Punjab Protection Against Harassment of Women at the Workplace Act (2012), the Balochistan Protection Against Harassment of Women at Workplace Act (2016) and any other relevant legislation adopted by the other provinces so as to protect men against sexual harassment in employment and occupation on an equal footing with women. It further asks the Government to take steps to train labour inspectors and judges on the issue of sexual***

harassment in employment and occupation and raise awareness of the laws on sexual harassment among workers and employers and their respective organizations as well as the public. Lastly, the Committee asks the Government to continue to provide information on: (i) the implementation of these laws in practice, in particular on the adoption by public and private organizations of internal codes of conduct and the constitution of complaints committees to adjudicate complaints against harassment; and (ii) the number and results (sanctions imposed and remedies granted) of complaints lodged for sexual harassment.

Transgender and intersex persons. The Committee notes with **interest** the adoption of Act No. XIII of 2018, the Transgender Persons (Protection of Rights) Act, which recognizes the right of persons to choose their gender identity and prohibits, inter alia, discrimination against and harassment of transgender and intersex persons based on sex, gender identity and gender expression, in relation to education, employment, trade and occupation, including termination of employment or occupation. **The Committee asks the Government to take steps to raise awareness of the Transgender Persons (Protection of Rights) Act (Act No. XIII of 2018) among workers, employers and their respective organizations as well as enforcement authorities, and provide information on its implementation in practice, including any cases of discrimination based on gender identity dealt with by the labour inspectors or the courts.**

Discrimination based on social origin. The Committee recalls its observation expressing concern regarding the continuous de facto segregation and discrimination against Dalits. The Committee notes the Government's indication that it does not recognize any discrimination among individuals on the basis of their belonging to a specific caste. The Government further indicates that newly adopted provincial laws, such as the Sindh Payment of Wages Act (2015), the Punjab Minimum Wages Act (2019) and the Balochistan Payment of Wages Act (2021), prohibit discrimination based on caste. The Committee reminds the Government that proactive measures are also required to analyse and address the situation of the different groups in the labour market, in cooperation with workers' and employers' organizations, and to improve knowledge and awareness among ethnic and national minorities about anti-discrimination and equality legislation, enforcement mechanisms and procedures (see 2012 General Survey on the fundamental Conventions, paragraph 775). In this regard, the Committee notes that, in its concluding observations, the United Nations Committee on the Elimination of Racial Discrimination (CERD) recommended that measures necessary to end discrimination in employment against Dalits be taken (CERD/C/PAK/CO/21-23, 3 October 2016, paragraph 32). **The Committee urges the Government to adopt the necessary measures at the federal and provincial levels to enforce the prohibition of and to eliminate discrimination based on caste with respect to Dalits and promote their inclusion in the labour market in a wider range of jobs. It also asks the Government to provide statistics disaggregated by sex on the employment of Dalits.**

Discrimination based on religion. The Committee reiterates its previous observation expressing concern regarding equality of opportunity and treatment in employment and occupation for religious minorities, in particular the members of the Ahmadi minority. It recalls article 260(3)(b) of the Constitution that defines a "non-Muslim" as "a person belonging to the Christian, Hindu, Sikh, Buddhist or Parsi community, a person of the Qadiani Group or the Lahori Group who call themselves "Ahmadis" or by any other name or a Bahai, and a person belonging to any of the Scheduled Castes". The Committee also recalls section 298C of the Penal Code ("blasphemy laws") that singles out members of the Ahmadi minority, as well as the practice which has the effect of denying the Ahmadi minority from obtaining passports identifying them as Muslims. The Committee notes that such provisions have a bearing on the opportunities of religious minorities regarding employment and that they are contradictory to the labour laws that Pakistani provinces have adopted over the past decade, such as the Balochistan Payment of Wages Act (2021), the Khyber Pakhtunkhwa Payment of Wages Act (2013) and the Sindh Payment of Wages Act (2015), which include "religion" as a ground for non-discrimination. The Committee notes with **regret** that the Government's report does not contain any information

regarding any steps taken or envisaged to review the discriminatory legislative provisions and administrative measures. It notes that, in a joint statement, United Nations Human Rights Experts have expressed their deep concern over the lack of attention to the serious human rights violations perpetrated against the Ahmadiyya Muslim community around the world, including in Pakistan. They have urged all States inter alia to: (1) repeal all laws that discriminate against Ahmadi Muslims; (2) ensure the equal and effective participation of Ahmadis in public life and in decision-making processes that affect them, including by guaranteeing their access to employment; (3) address the multiple and intersecting forms of violence and discrimination suffered by Ahmadi women; and (4) eliminate discrimination against Ahmadi children and their exclusion from education and vocational training (see special procedures, press release of 13 July 2021). ***The Committee once again urges the Government to take immediate steps to amend its discriminatory legal provisions and administrative measures, and to actively promote respect and tolerance for religious minorities, including the Ahmadi, and to provide information on any progress made in this regard. The Committee once again asks the Government to provide information on the access to employment of religious minorities, including those defined in article 260(3)(b) of the Constitution. It further asks the Government to provide information on any other measures taken or envisaged to promote tolerance and equality of opportunity and treatment in employment and occupation for religious minorities.***

Article 2. Equality of opportunity and treatment for men and women. The Committee notes that according to the Key Findings of Labour Force Survey 2020–21, female participation in the Pakistani labour market remains low at 21.4 per cent of the total workforce, of which 28 per cent work in rural areas. The Committee welcomes the adoption of the Sindh Home-Based Workers Act (2018), the Khyber Pakhtunkhwa Home-Based Workers (Welfare and Protection) Act (2021) and the legislative progress of the Balochistan Home-Based Workers Bill (2021) and the Islamabad Capital Territory Domestic Workers Bill (2021), which provide domestic workers with access to labour rights. The Committee further notes that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern about: (1) “persistent discriminatory stereotypes regarding the roles and responsibilities of women and men in the family and in society, exacerbated by the religious divisions in the State party, which perpetuate women’s subordination to men”; and (2) “the persistence of discriminatory stereotypes faced by women and girls belonging to ethnic minority groups, in particular Ahmadi, Christian, Dalit, Hindu, Roma, scheduled caste, Sheedi and Sikh women and girls, who are sometimes the victims of abduction and forced conversion”. The CEDAW also expressed concerns regarding: (1) the very low labour force participation rate for women; (2) the high concentration of women in the informal economy, particularly in the agriculture sector, where they are not covered by labour law and social security programmes, including minimum wage protection, overtime compensation and maternity leave; (3) the lack of reliable data on the number of women who are employed, including home-based women workers, women domestic workers, unpaid women care workers, women with disabilities and refugee women; (4) the very low level of participation of women in senior and middle management positions in 2018 (4.2 per cent); and (5) the very low percentage of women entrepreneurs (an estimated 1 per cent of entrepreneurs) (CEDAW/C/PAK/CO/5, 10 March 2020, paragraphs 29, 41 and 47(a)). ***In light of the above, the Committee asks the Government to take proactive measures to: (i) promote women’s access to employment and a wide range of jobs, and to address their low participation in the labour market; and (ii) address discrimination against women, including those belonging to ethnic minority groups, and gender stereotypes regarding their role in employment and society.***

It also asks the Government to provide information on: (i) any measures, including those by the inspection staff under the provincial Labour Departments, taken in this regard; (ii) the adoption of the Balochistan Home-Based Workers Bill (2021) and the Islamabad Capital Territory Domestic Workers Bill (2021) and the impact of the new laws relating to home-based workers and domestic workers on their employment situation, in particular their access to their labour rights; and (iii) the participation of men

and women in the labour market and the informal economy, by sector and occupational category if possible.

The Committee is raising other points in a request addressed directly to the Government.

Panama

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1958)

Previous comment

The Committee notes the observations of the National Confederation of United Independent Unions (CONUSI), received on 30 August 2021. The Committee notes the Government's response.

Articles 1(b) and 2(2)(a) of the Convention. Work of equal value. Legislation. The Government indicates in its report that it received technical assistance from the ILO in 2017 and 2019 regarding measures to harmonize its legislation with the principle of the Convention, in particular section 10 of the Labour Code (which provides for "equal pay for equal work in the service of the same employer, performed in the same job, working day, conditions of efficiency and seniority"). In its observations, CONUSI expresses the view that there is no justification for the legislative amendments not to have been carried out by the Government. The Committee notes the Government's response indicating that due to political elections and the change of government, it was not possible to follow-up on the assistance provided by the ILO, and that consideration is being given to requesting technical assistance again. The Committee recalls that on numerous occasions it has pointed out that the legislation should not only provide for equal remuneration for equal, the same or similar work, but should also prohibit pay discrimination in situations where men and women perform different work that is nevertheless of equal *value* (see the [2012 General Survey on the fundamental Conventions](#), paragraph 679). **The Committee therefore once again requests the Government to take steps to expand the definition contained in its legislation of the principle of equal remuneration for men and women for work of equal value, in accordance with the provisions of the Convention. The Committee reminds the Government that it may continue to avail itself of the technical assistance of the Office on this matter if it deems it necessary.**

The Committee is raising other matters in a request addressed directly to the Government.

Philippines

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1953)

Previous comment

The Committee notes the Government's reports.

Articles 1(b) and 2(2)(a) of the Convention. Work of equal value. Legislation. For many years, the Committee has been noting the restrictive interpretation given to "work of equal value" referred to in section 135(a) of the Labour Code, through the 1990 Rules implementing the Republic Act No. 6725, which define it to mean "activities, jobs, tasks, duties or services which are identical or substantially identical". The Committee notes, from the Government's reports, that it is still working towards the adoption of amending guidelines that will bring the definition into conformity with the Convention. In this regard, the Committee refers the Government to its [2012 General Survey on the fundamental Conventions](#), paragraph 675. **The Committee urges the Government to take all the necessary measures to ensure that the amending guidelines are adopted in the near future and that the new definition of "work of equal value" gives full legislative expression to the principle of equal remuneration for men and women for work of equal value, including but not limited to, "identical", "equal", "the same" or**

“similar” work, but also encompassing work that is of an entirely different nature, but which is nevertheless of equal value.

Article 3. Objective job evaluation. With reference to its previous comments, the Committee notes that the Government’s reports do not provide any information on this point. The Committee thus refers to its [general observation](#) which states that in order to establish whether different jobs are of equal value, there has to be an examination of the respective tasks involved. This examination must be undertaken on the basis of entirely objective and non-discriminatory criteria to avoid an assessment being tainted by gender bias. While the Convention does not prescribe any specific method for such an examination, it does presuppose the use of appropriate techniques for objective job evaluation. Whatever methods are used for the objective evaluation of jobs, particular care must be taken to ensure that they are free from gender bias. **The Committee requests the Government to provide information on whether the Bureau of Local Employment has developed the Human Resources Development Plan and, if so, to provide detailed information on how it is ensured that the selection of factors used for comparison, the weighting of such factors and the actual comparison carried out are not discriminatory, either directly or indirectly. The Committee also requests the Government to supply information on any initiatives taken by the workers’ and employers’ organizations to determine wages on the basis of an objective evaluation of jobs.**

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1960)

[Previous comment](#)

The Committee notes the Government’s reports.

Article 1 of the Convention. Protection against discrimination. Legislation. The Committee recalls its long-standing comments urging the Government to introduce the necessary legal measures to ensure that women are protected against discrimination in all aspects of employment, more particularly over the lack of legislative prohibition of discrimination against women in hiring. The Committee notes with **regret** that, according to the Government’s reports, Senate Bill No. 429 proposing to amend sections 135 and 137 of the Labour Code to prohibit discrimination based on sex in hiring and security of employment has not yet been adopted. It notes that the Bill was renumbered Senate Bill No. 829 (an Act Expanding the Prohibited Acts of Discrimination Against Women on Account of Sex, Amending for the Purpose Articles 135 and 137 of the Labour Code); it was referred to a committee on labour, employment and human resources development and has a counterpart in the House of Representatives, House Bill No. 675. **The Committee urges the Government to take all of the necessary steps to see that Senate Bill No. 829 and House Bill No. 675 are adopted without delay, so as to ensure effective legal protection against discrimination based on sex in hiring and security of employment, in accordance with the Convention. It requests the Government to provide information on any developments in this respect.**

Article 3(d). Application in the public sector. In reply to its previous comment, the Committee notes the Government’s indication that the principle of the Convention is applied, in practice, to the high-level positions exempted from the publication requirement of Republic Act No. 7041 through the 2017 Omnibus Rules on Appointment and other Human Resource Actions (CSC MC 24, s. 2017 and CSC resolution No. 1701009 dated 16 June 2017). Specifically, the Government refers to sections 83–103 of Rule IX which provide for the procedures and criteria applicable to appointments in government offices at all levels and state that: (1) there shall be no discrimination in the selection of employees on account of age, sex, sexual orientation and gender identity, civil status, disability, religion, ethnicity, or political affiliation (section 83); (2) the head of the agency shall, as far as practicable, ensure equal opportunity for men and women (section 89); and (3) the Selection Board shall maintain fairness and impartiality in

the assessment of candidates for appointment (section 97). To this end, the Selection Board may employ the assistance of an independent collaborator and all government agencies must comply with these requirements or non-compliance shall be considered as a ground for invalidation of the appointment, as well as a ground for action against the official who caused the violation (section 103). ***The Committee requests the Government to identify the institution or authority responsible for supervising the application of the 2017 Omnibus Rules on Appointment and other Human Resource Actions with regard to the appointment of high-level positions exempted from the publication requirement in Republic Act No. 7041. The Government is asked to provide information on the number of non-compliance cases identified, the consequences of such cases (invalidation of appointment and/or action against the official responsible for the violation), indicating the ground of discrimination involved. Noting that no reply is provided on this point, the Committee also reiterates its request that the Government provide an illustrative sample of procedures and criteria provided for in the Merit Promotion Plans.***

The Committee is raising other matters in a request addressed directly to the Government.

Qatar

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1976)

Previous comment

Legislative developments. Labour reforms. The Committee notes with **interest** the adoption of different sets of laws, regulations and practical measures in recent years and months. In that sense, the Committee notes the following laws and regulations since its previous comments: (1) Decision No. 95 of 2019 of the Ministry of Interior which provides that, with immediate effect, exit permit requirements have been removed for all expatriates who are not subject to the Labour Law of Qatar, such as domestic workers; (2) Law No. 17 of 2020 on the minimum wage which sets down the minimum wage for workers and applies to all categories of workers, regardless of their nationality or the sector in which they work, including domestic workers (see ILO Project Office for the State of Qatar, Progress report on the technical cooperation programme between the Government of Qatar and the ILO, November 2022); (3) Law No. 19 of 2020 amending Law No. 21 of 2015 regulating the entry, exit and residence of expatriates, supplemented by Ministerial Decision No. 51 of 2020, which removed the legal requirement for migrant workers to obtain a no-objection certificate from employers to change jobs; and (4) Ministerial Decree No. 17 of 2021 which specified measures to protect workers, including migrant workers, from heat stress.

The Committee also welcomes the adoption of the National Policy on Labour Inspection in 2019 and the National Policy on Occupational Safety and Health in 2020 which include the collection, analysis and publication of data as a specific objective. Where appropriate, the Committee will examine the provisions of these laws and policies under the relevant Articles of the Convention.

Article 1 of the Convention. Protection against discrimination. Legislation. The Committee notes that the Government refers once again to articles 34 and 35 of the Constitution (equality before the law and non-discrimination on the basis of sex, race, language or religion) and explains that the Labour Law does not contain discriminatory provisions. Referring to its previous detailed comments and to paragraphs 850–855 of its [2012 General Survey on the fundamental Conventions](#), the Committee recalls that the absence of a clear and comprehensive legislative framework may prevent workers from availing themselves of their right to equal opportunity and treatment and to non-discrimination. ***The Committee once again strongly urges the Government to take the necessary steps to introduce in the labour legislation (Labour Law No. 14 of 2004 and Law No. 15 of 2016 issuing the Civil Human Resources Law) or in any specific anti-discrimination legislation, provisions defining and prohibiting direct and indirect discrimination based on at least all of the grounds enumerated by the Convention, including political***

opinion, national extraction and social origin, covering all workers at all stages of employment and occupation, including recruitment and terms and conditions of employment.

Scope of application. Categories of workers excluded from the Labour Law. The Committee notes the Government's indication that: (1) the Civil Human Resources Law of 2016, which applies to public sector employees, provides for comprehensive protection against discrimination, because its provisions do not differentiate between employees; (2) members of armed forces, the police and other military bodies are covered by specific laws that do not discriminate; and (3) workers in agriculture are not excluded any longer from the scope of the Labour Law further to its amendment. The Committee wishes to underline that the absence of provisions differentiating between workers in the law is not sufficient to effectively protect all persons against discrimination in employment and occupation, as required by the Convention. The Committee also wishes to point out that, if the Convention leaves it to each country to decide which legislative measures are appropriate to implement the national equality policy, it requires the State to review whether legislation is needed to secure the acceptance and observance of the policy. The need for legislative measures to give effect to the Convention must thus be assessed within the framework of the national policy required by *Article 2* of the Convention, having regard in particular to the other types of measures which may have been taken, and to the effectiveness of the overall action pursued, including whether there are adequate and effective means of redress and remedies (see 2012 General Survey on the fundamental Conventions, paragraph 735). ***In light of the above, the Committee asks the Government to provide information on any measures taken to include in the specific laws and regulations applying to workers excluded from the scope of the Labour Law explicit provisions defining and prohibiting direct and indirect discrimination based on at least all of the grounds enumerated in Article 1(1)(a), including provisions addressing all forms of sexual harassment, at all stages of employment and occupation, especially recruitment.***

Article 1(1)(a). Discrimination based on sex. Follow-up to the representation under article 24 of the ILO Constitution. The Committee notes the Government's indication that the Ministry of Administrative Development, Labour and Social Affairs (MADLSA) closely follows up on all complaints received, through its periodic inspections. The Government adds that: (1) in 2018, 11 complaints were submitted by 9 airline workers, of whom 5 were women and 4 men, none of which related to discrimination in employment and occupation; and (2) to protect and safeguard the worker's health and the health of the child during pregnancy, pregnant women workers are transferred to appropriate jobs among the ground service staff. The Committee notes that the Government does not provide any information regarding the implementation of the rules regarding drop-off or pick-up of female employees from the company premises and rest periods, nor does it indicate how it is ensured that the application of rules and policies by the company does not create or contribute to an intimidating working environment and that the quality of life of cabin crew is improved. ***The Committee asks the Government to continue to follow up with the company concerned with regard to the implementation of the recommendations adopted by the Governing Body in 2015, and to monitor its practices, in order to ensure that: (i) there is no discrimination against pregnant cabin crew members; (ii) measures continue to be taken to provide them with alternative suitable work during pregnancy; (iii) rules governing rest periods are implemented in a non-discriminatory manner; and (iv) the application of rules and policies does not create or contribute to an intimidating working environment.***

The Committee asks the Government to continue to: (i) strengthen and monitor the effectiveness of prevention and enforcement mechanisms, including their capacity to detect and address discriminatory practices; and (ii) provide information on any complaints of discrimination filed and the results thereof.

Sexual harassment. The Committee notes from the progress report of the technical cooperation programme between the Government of Qatar and the ILO (TCP Qatar-ILO) that the MADLSA and the ILO have developed and delivered the first training activities on discrimination, violence and harassment for joint committees in September 2022. With respect to the insufficiency of the legislative framework

to ensure the prohibition and effective protection against all forms of sexual harassment in employment and occupation, the Committee notes that the Government refers once again to: (1) Law No. 14 of 2004 (Labour Law) which allows a worker to terminate his/her contract if the employer commits a physical assault, or an immoral act against him/her, or a member of his/her family (section 51(2)); and (2) sections 279 to 289 of Law No. 11 of 2004 issuing the Penal Code which punish “crimes of honour” and section 291 which provides for sanctions against any person who “offends a woman’s modesty”. With reference to its previous comments, the Committee points out once again that the provisions of the Labour Law and the Penal Code do not capture the full range of behaviours that constitute sexual harassment in the specific field of employment and occupation, which can materialize verbally, physically, visually, psychologically or electronically, and be committed by the employer or any other person related to work, at all stages of employment. The Committee also refers to its 2012 General Survey on the fundamental Conventions for more details on sexual harassment (paragraphs 789–794). ***The Committee once again urges the Government to take the necessary steps to: (i) explicitly define and prohibit in the labour legislation relating to the public and private sectors or any specific anti-discrimination legislation, all forms of sexual harassment at work committed not only by the employer but also by any other person in relation to work, at all stages of employment, against all men and women workers; (ii) include specific provisions for effective mechanisms to prevent, remedy and sanction sexual harassment; and (iii) provide specific training for labour inspectors on this subject. Lastly, the Committee once again asks the Government to provide information on the number of complaints of sexual harassment referred to the competent authorities, including criminal cases in application of sections 279 to 289 and 291 of Law No. 11 of 2004 issuing the Penal Code.***

Articles 1 and 2. Equality and non-discrimination. Migrant workers. The Committee notes the following information provided in the Government’s report and the progress report on the TCP Qatar–ILO regarding another set of measures: (1) the removal of the legal requirement for migrant workers to obtain a no-objection certificate from employers to change jobs (Law No. 19 of 2020); and (2) the indication that, from November 2020 to August 2022, a total of 348,455 applications to change jobs were approved by the MADLSA, 16 per cent of which were submitted by women workers in the private sector (the overall proportion of women in the workforce being 15 per cent). The Committee also notes that the implementation of the programme for the rotation of expatriate workers and the retention of skilled workers has commenced and an electronic platform (the Labour Re-employment Platform) was launched to rotate skilled workers in the local market.

The Committee further notes with **interest** that: (1) in 2021, the MADLSA established an online platform for workers, including domestic workers, to submit complaints online, including anonymous whistle-blower complaints; (2) the electronic systems of MADLSA and the Ministry of Interior have been linked in an attempt to prevent employers from cancelling workers’ residency permits (QIDs) or filing false charges of abscondment as a form of retaliation. With respect to the misuse of the abscondment report system as a retaliatory action, the Committee welcomes the procedural changes adopted to oblige the employer reporting a case of abscondment to provide additional information, such as on whether or not the employer owes any financial dues to the worker or whether or not there is a labour complaint, the worker’s accommodation address and information on any witness(es) who can testify. It notes that a penalty was introduced in case of submission of false information by the employer; and (3) awareness-raising campaigns are carried out on a large scale to inform workers of the mechanisms available to them to file complaints and to make them aware of their rights, in multiple languages. Finally, the Committee notes from the progress report of the TCP Qatar–ILO that: (1) the ILO Doha Office has continued to receive queries from workers, giving thereby a direct insight into the challenges faced by migrant workers and where implementation challenges remain; (2) throughout 2022, most of the queries received concerned delays and cancellations of workers’ applications to change employer, together with cancellations of QIDs and other similar forms of retaliation, which remains a challenge; (3) the number of cases per month and in total has declined substantially in the second half of the year;

(4) the Workers' Support and Insurance Fund has dramatically increased disbursements to workers up until 30 September 2022 to QAR1,165,316,181 (over US\$320 million) of unpaid wages and benefits, which demonstrates the scale of this issue; and (5) Decision No. 2/2022 on the provisions and procedures for disbursing workers' entitlements was published in April 2022. The report adds that a booklet on the Labour Law will be published by the end of the year in English and Arabic and will be translated into multiple languages in 2023. ***Welcoming the important legal measures adopted recently and in the past years by the Government to facilitate the labour mobility of migrant workers and thereby reduce their vulnerability to discrimination and abuse, the Committee asks the Government to: (i) step up its efforts in monitoring and enforcing the new legal provisions; (ii) ensure that, where implementation challenges and obstacles remain, measures are taken so that migrant workers can avail themselves of their rights and do not suffer retaliation from their employer; and (iii) continue to undertake awareness-raising activities.***

The Committee also asks the Government to adopt proactive and comprehensive measures to promote substantive equality and combat prejudices and stereotypes against migrant workers.

Equality and non-discrimination. Domestic migrant workers. Legislative developments and practical measures. The Committee welcomes the adoption of Ministerial Decision No. 95 of 2019 according to which domestic workers now have the right to leave the country temporarily or permanently during their contract period without prior approval from their employers, with 72 hours' notice to the employer whose approval is not required. Furthermore, as stated at the beginning of this comment, the Committee notes the following developments: (1) the adoption by the MADLSA in 2021 of a revised standard employment contract; (2) the determination of maximum recruitment fees that agencies can charge employers; (3) the implementation of a public campaign to raise awareness on decent work for domestic workers; (4) the development of a *User Guide* for workers submitting employment change applications and an update of the communication on labour mobility legislation produced in 12 languages; (5) the dissemination of the *Know Your Rights* booklet for domestic workers in 12 languages and the publication of the *Guide to Employing Migrant Domestic Workers in Qatar* booklet for employers in two languages; and (6) the design and development of a training programme on decent work for domestic workers for licensed private recruitment agencies in Qatar, in cooperation with the ILO. In addition, the Committee notes that, as part of the TCP Qatar-ILO, the MADLSA and ILO are studying the feasibility of developing a voluntary wage protection system (WPS) for domestic workers which would allow the Government to monitor salaries and allowances paid to them and to detect violations, as the current WPS does not cover this category of workers. In this context, the Committee also observes that Decision No. 2/2022 on the provisions and procedures for disbursing workers' entitlements establishes limits on how much can be paid out and provides for a different limit for domestic workers. With respect to the revised employment contract, it notes that the contract: (1) specifies additional rights for domestic workers and provides clarity on the terms and conditions of their employment; and (2) aligns domestic workers' rights with those of other workers employed in the private sector in relation to overtime payment, termination of employment and sick leave entitlements. The Committee notes however with **concern** from the progress report of the TCP Qatar-ILO that: (1) challenges of full implementation of the reforms remain, especially due to limited inspection of working and living conditions of domestic workers; (2) there have been reports of employers of domestic workers seeking to recover the fees paid to recruitment agencies from the workers themselves, to compensate for the loss of the worker, and restricting workers' labour mobility by filing false charges of abscondment or cancelling workers' residency permits as a form of retaliation. ***The Committee asks the Government to take the necessary steps to: (i) ensure that domestic workers benefit from the same legal and practical protections against discrimination as other categories of workers, including with respect to disbursement of wages and all forms of sexual harassment, either by amending Law No. 15 of 2017 or through the adoption of comprehensive anti-discrimination legislation; (ii) adequately monitor and enforce the new legislation on the minimum wage (including to ensure that it does not***

discriminate on the basis of national origin), the removal of exit visas and change of employer, as well as compliance with the revised employment contract; and (iii) effectively combat stereotypical views and prejudices regarding domestic workers and the undervaluation of their work.

It also asks the Government to provide information on the measures taken to address the issues of inspection of working and living conditions of domestic workers and restrictions by the employer to labour mobility.

Article 2. Equality between men and women in employment and occupation. The Committee notes that the Government refers once again to the Qatar National Vision 2030, which calls for, inter alia, “improving women's capacities to enable them to participate fully in the country's economic and political process”. It notes the Government's indication that: (1) women's participation in the labour market has increased significantly as a result of the inclusion of promotion of women's rights in national policies and laws which regulate the labour market; (2) Qatari women are holding several ministerial positions and leadership roles, and their presence is increasing in the honorary ranks of ministries, the judiciary, the public prosecution and the Shura Council. The Committee also notes from the statistics on the distribution of the labour force for 2019 provided by the Government that the labour market continues to be highly segregated, with a large majority of women in domestic services (40 per cent of all working women in comparison with 3.6 per cent of all working men), education (12.2 per cent of all working women in comparison with 1 per cent of all working men), and health and social work (7.6 per cent of all working women in comparison with 1.2 per cent of all working men). Most men work in construction (48.1 per cent of all working men in comparison with 2 per cent of all working women). The Committee also notes that, in reply to its previous comments, the Government indicates that it will look into the manner of undertaking an assessment and analysis of the gender situation in respect of employment under its direct control and to encourage such an initiative in the private sector. ***Noting the persistent gender occupational segregation and low participation of women in the labour market, the Committee reiterates its request to the Government to adopt proactive measures and remove obstacles, with a view to facilitating and increasing the participation of women – Qatari and non-Qatari – in employment and occupation. In particular, the Committee asks the Government to adopt measures aimed at: (i) promoting equal opportunities for men and women in employment and occupation, including through the promotion of neutral recruitment processes and the removal of obstacles to access to productive resources and equipment; and (ii) combating stereotypical views regarding women's aspirations and capabilities, their suitability for certain jobs or their interest or availability for full-time jobs.***

The Committee hopes that the Government will soon be able to undertake an assessment and analysis of the gender situation in respect of employment under its direct control and to encourage such an initiative in the private sector. The Government is also asked to continue providing up-to-date statistics, disaggregated by sex, concerning the participation of men and women in the various sectors of economic activity, in both the private and the public sectors, as well as statistics on the participation of both Qatari and non-Qatari women in education and vocational training.

Article 5. Special measures of protection and assistance. Women's employment. The Committee notes the Government's statement that: (1) there are no restrictions in law and in practice limiting the employment of women in certain professions; and (2) over time, a shift has occurred from a protectionist approach to women's employment to an approach based on the promotion of true equality between men and women and the actual elimination of discriminatory practices. The Committee also notes the Government's indication that Council of Ministers Order No. 26 of 2019 was promulgated, establishing the National Committee for the Affairs of Women, Children, the Elderly and Persons with Disabilities, which “reflects the official interest in the need for a supreme national government agency concerned with the family, in particular women, their needs and future aspirations, in line with the comprehensive vision of development “Qatar National Vision 2030””. ***The Committee therefore asks the Government to provide information on any steps taken to ensure that: (i) its approach regarding women's employment***

remains in line with the principles of equality and non-discrimination and addresses gender stereotypes regarding the role, capacity and aspirations of women; and (ii) any protective measures taken are strictly limited to maternity protection or based on occupational safety and health risk assessments and do not constitute obstacles to the employment of women, in particular their access to posts with career prospects and responsibilities.

Enforcement and awareness-raising. The Committee emphasizes the importance of enforcing the new legal provisions, in particular those concerning migrant workers, including domestic migrant workers. It also refers to the developments described above regarding the establishment of an online platform for workers, including domestic workers and whistle-blowers, to submit complaints. The Committee also notes from the progress report of the TCP Qatar-ILO that between October 2021 and October 2022, the MADLSA received 34,425 complaints, primarily through the online complaints platform, mainly concerning non-payment of wages and end-of-service benefits, as well as annual leave. Of the total number of complaints, 66.5 per cent (22,897) were settled, 30.7 per cent (10,565) were sent to the Dispute Settlement Committees (DSCs) and 2.8 per cent (963) are still under review. The Committee notes the Government's indication that no violations were detected relating to discrimination in employment and occupation during inspection visits in 2019–20 and no lawsuits were registered with the labour dispute settlement committees in relation to discrimination in employment and occupation. It further notes that specialized training programmes were held for labour inspectors to strengthen their competence on labour law and international labour standards, including their ability to detect any cases related to discrimination in employment and occupation. **The Committee asks the Government to continue to increase the number and reinforce the capacities of labour inspectors and other enforcement authorities with a view to preventing, identifying and effectively addressing cases of discrimination and putting an end to discriminatory practices. It also asks the Government to continue to provide information on the number, nature and outcomes of any cases detected by labour inspectors and complaints examined by courts relating to discrimination in employment and occupation and on the functioning of the complaints system and any obstacles faced by workers in submitting their complaints.**

Romania

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1973)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Discrimination based on religion. Access to education, training and employment. The Committee notes, from the European Commission's website, that a draft bill to amend the Romanian Education Law was filed on 2 December 2017 and received a positive advisory opinion from the Economic and Social Council on 9 January 2018. The bill proposes the following additions to section 7 of the Education Law: "for the purpose of facilitating the identification of persons in educational units, institutions and all spaces used for education and professional training, it is prohibited to cover one's face with any material which make it difficult to recognize the face, except for medical reasons. Infringement of these provisions constitutes a reason to deny access to the perimeter of the educational units, institutions and spaces for education and professional training." The sanction, introduced as an amendment to section 360(1) of the Education Law would be a fine ranging from 5,000 to 50,000 Romanian Leu (RON) (approximately €1,100 to €11,000). The Committee notes that, if adopted, this new provision will be discriminatory towards those Muslim women and girls who wear a full face veil in terms of their access to educational or training institutions and might therefore limit their opportunities to find and exercise employment in the future – for reasons associated with their religious convictions, contrary to the Convention. **Noting that this provision of the draft bill may have a discriminatory effect towards Muslim women who wear a full-face veil in terms of their possibilities of finding and exercising employment, the Committee requests the Government to provide information on: how it is ensured that this provision of the draft bill will not have the effect of**

reducing the opportunities of girls and women to access education and finding employment in the future; (ii) the progress of the draft bill in the legislative process; and (iii) to supply information on the number of girls and women who might be affected by the implementation of this new provision.

Articles 1(2) and 4. Discrimination based on political opinion. Inherent requirements of the job. Activities prejudicial to the security of the State. For a number of years, the Committee has been drawing the Government's attention to the fact that the restriction set by section 54(j) of Act No. 188/1999, which provides that "to hold public office a person shall meet the following conditions: ... (j) shall not have been carrying out an activity in the political police as defined by the law", could amount to discrimination on the basis of political opinion because it applies broadly to the entire public service rather than to specific jobs, functions or tasks. In its previous report, the Government had explained that, in order to clarify the legal norm and remove any possible inconsistency with the Convention, it had proposed an amendment to the current text of section 54(j) of Act No. 188/1999 as follows: "... was not a worker of the Securitate or a collaborator thereof, as provided by specific legislation». According to the Government, "specific legislation" refers to section 2 of Ordinance No. 24/2008 which defines an "employee of Securitate" and a "collaborator of Securitate". While understanding the Government's concerns regarding the requirement for all government unit members to be loyal to the State, the Committee had drawn attention to the fact that, for such measures not to be deemed discriminatory under *Article 4* of the Convention relating to activities prejudicial to the security of the State, they must affect an individual on account of activities he or she is justifiably suspected or proven to have undertaken. These measures become discriminatory when taken simply by reason of membership to a particular group or community. They must refer to activities that are objectively prejudicial to the security of the State and the individual concerned must have the right to appeal to a competent body in accordance with national practice (see 2012 General Survey on the fundamental Conventions, paragraphs 832–835). The Committee therefore requested the Government to specify and define the functions in respect of which section 54(j) of Act No. 188/1999 would apply and to provide information on its application in practice. The Committee notes that the Government's report does not contain any information in this regard. It notes, however, that the European Court of Human Rights (ECHR) (*Naidin v. Romania*, No. 38162/07) held that the barring of a former collaborator of the political police from public service employment was justified by the loyalty expected from all civil servants towards the democratic regime. In this regard, the Committee recalls that, under *Article 1(2)*, political opinion may be taken into account as an inherent requirement of a particular position involving special responsibilities in relation to developing government policy, which is not the case of section 54(j) given that it applies to any state civil service position, whatever the level of responsibility. Further, the Committee recalls that the principle of proportionality must apply and that the exception under *Article 4* should be interpreted strictly. ***The Committee urges the Government to take the necessary steps to amend section 54(j) of Act No. 188/1999 or to adopt other measures clearly stipulating and defining the functions to which this section applies. It also asks the Government to provide information on the application of section 54(j) of Act No. 188/1999 in practice, including information on the number of persons dismissed or whose application has been rejected pursuant to this section, the reasons for these decisions and the functions concerned, as well as information on the appeal procedure available to the affected persons and any appeals lodged and their results.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Russian Federation

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1956)

Previous comment

The Committee notes the observations of the Confederation of Labour of Russia (KTR) received on 31 August 2021.

Articles 1–4 of the Convention. Assessing and addressing the gender pay gap and its underlying causes (occupational segregation). The Committee notes that, according to the statistical information from the

Federal State Statistics Service (Rosstat) provided by the Government in its report, the average gender pay gap remained high at 27.9 per cent in 2019 (compared with 27.4 per cent in 2015). It observes that the gender pay gap was as wide as 40 per cent for mid-level professionals, where women represented 68.9 per cent of the total number of workers, and 30.1 per cent for top level professionals, where women represented 70.6 per cent of the total number of workers. Furthermore, in all economic sectors, wages of women were systematically lower than men's. In that regard, the Committee notes the persistence of occupational gender segregation, with women being still concentrated in hotel and restaurant services (66 per cent), education (79.9 per cent), healthcare and social services (79.9 per cent), while men were mostly working in construction (83.5 per cent), mining (81.7 per cent) and production and distribution of electricity, gas and water (66.9 per cent). It also notes that, in its observations, the KTR highlights that, in sectors where women are most concentrated: (1) the average monthly salary was systematically lower than the national average salary while the opposite applies for sectors where men are concentrated, except in construction where there is a significant percentage of migrant workers; and (2) men remain disproportionately represented in management. In that regard, the KTR adds that, while the share of women in management positions over two years grew by 1.2 per cent and was approaching parity (49.7 per cent in 2019), the gender pay gap in hourly earnings for managers was estimated at 31.6 per cent in 2019. Despite this situation, in KTR's view, the Government did not take any serious commitment to promote gender equality or elaborate and implement inclusive, comprehensive and gender-sensitive approaches in order to reduce the gender pay gap. The Committee notes with **concern** this information and regrets that the Government did not provide information on any measures elaborated or implemented in order to address the wide and persistent gender pay gap and its underlying causes. It notes that, in its 2020 conclusions, the European Committee of Social Rights (ECSR) concluded that the Russian Federation was not in conformity with Article 20(c) of the European Social Charter, which requires the implementation of appropriate measures regarding remuneration to ensure equal opportunities and equal treatment between men and women in matters of employment and occupation, on the ground that the obligation to make measurable progress in reducing the gender pay gap has not been fulfilled (March 2021, pages 32–33). Furthermore, in its 2021 concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed similar concerns (CEDAW/C/RUS/CO/9, 30 November 2021, paragraph 38). Finally, the Committee refers to its comments on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Workers with Family Responsibilities Convention, 1981 (No. 156) regarding prohibition of women's employment in specific occupational activities, as well as gender stereotypes regarding women's professional capabilities and their role in the family. **The Committee therefore urges the Government to take the necessary steps, without delay, in order to address the gender pay gap and its underlying causes, such as persistent vertical and horizontal occupational gender segregation and stereotypes regarding women's professional aspirations, preferences and capabilities, and their role in the family. It asks the Government to provide: (i) information on the content of the proactive measures implemented to overcome occupational gender segregation in the labour market and reduce the gender pay gap, including by enhancing women's access to jobs with career prospects and higher pay; (ii) information on any assessment made of the results achieved by such measures; and (iii) statistical information on the earnings of men and women as well as any recent information on the gender pay gap, disaggregated by occupational category if possible, both in the public and private sectors.**

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
(ratification: 1961)

[Previous comment](#)

The Committee notes the observations of the Confederation of Labour of Russia (KTR) received on 1 September 2021.

Article 1 of the Convention. Protection against discrimination in employment and occupation. Legislation. The Committee notes that, in its report, the Government refers to sections 3 and 64 of the Labour Code without providing any additional information regarding the signification or scope of application of the term “convictions” (beliefs) as a prohibited ground of discrimination. It further notes that, in its observations, the KTR highlights: (1) the lack of legislative protection against indirect discrimination; as well as (2) the fact that, as a result of the inadequacy of existing regulations and the lack of definitions of the different types of discrimination, there is a lack of understanding of the nature of the phenomenon among workers and employers, as well as among judges. In that regard, the Committee points out that the Convention prohibits both direct and indirect discrimination in all aspects of employment and occupation (access to vocational training, access to employment and to particular occupations, and terms and conditions of employment). Furthermore, when legal provisions are adopted to give effect to the principle of the Convention, they should include at least all of the grounds of discrimination enumerated in *Article 1(1)(a)* of the Convention, among which “political opinion” (see [2012 General Survey on the fundamental Conventions](#), paragraph 749). ***In light of the above, the Committee urges the Government to take appropriate steps to ensure effective and comprehensive legal protection for workers against both direct and indirect discrimination on at least all of the grounds enumerated in Article 1(1)(a) of the Convention, including political opinion, and with respect to all aspects of employment and occupation as set out in Article 1(3). It asks the Government to provide information on the steps taken to that end and their outcomes.***

Article 1(1)(a). Discrimination based on sex. Sexual harassment. Regarding the absence of specific legal provisions protecting workers against sexual harassment at work, the Committee notes the Government’s indication, in its report, that a Federal Bill on the Prevention of Domestic Violence is currently under preparation. The Government adds that, in the framework of the National Strategy for Women 2017-2022, seminars were held at regional level on models for preventing and combating violence against women, in cooperation with the Council of Europe. The Committee notes that, in its observations, the KTR highlights the lack of adequate legislative provisions and mechanisms to protect workers against sexual harassment. The Committee further notes that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern at: (1) the absence of legislation explicitly criminalizing sexual harassment at the workplace; (2) the lack of effective measures to ensure the protection of women and girls from gender-based violence, harassment and bullying in schools and universities and the lack of effective complaint and redress mechanisms; and (3) the introduction, through the amendment to the Criminal Code in December 2020, of more severe sanctions for defamation, applicable to cases in which victims bring charges of crimes against their sexual integrity and sexual freedom, which prevents victims of sexual violence from gaining access to justice owing to fear of prosecution (CEDAW/C/RUS/CO/9, 30 November 2021, paragraphs 24, 36 and 38). In that regard, it recalls that addressing sexual harassment only through criminal proceedings is normally not sufficient, due to the sensitivity of the issue, the higher burden of proof, and the fact that criminal law does not cover the full range of behaviour that constitutes sexual harassment in employment and occupation. Given the gravity and serious repercussions of sexual harassment, as a serious manifestation of sex discrimination and a violation of human rights, the Committee emphasizes the importance of taking effective measures to prevent and prohibit sexual harassment at work, both quid pro quo and hostile environment sexual harassment (see [2012 General Survey on the fundamental Conventions](#), paragraphs 789 and 792). ***The Committee therefore again asks the Government to take steps to include, in its labour legislation: (i) a clear definition and prohibition of both quid pro quo and hostile work environment sexual harassment in employment and occupation; and (ii) appropriate preventive and remedial measures and procedures. It also asks the Government to provide information on: (i) any practical measures taken to prevent and address sexual harassment in***

employment and occupation, in the framework of the National Strategy for Women 2017-2022 or otherwise, including any awareness-raising activities carried out for employers, workers and their organizations; and (ii) the number of cases of sexual harassment dealt with by the courts or any other competent authorities, the sanctions imposed and remedies granted.

Articles 1(1)(a) and 5. Discrimination based on sex. Special measures of protection. The Committee notes the Government's indication that Resolution No. 162 of 25 February 2000, which excluded women from employment in 456 occupations and 38 branches of industry, was replaced by Order No. 512 of 18 July 2019 of the Ministry of Labour, which came into force on 1 January 2021. This Order updates the list of production processes, jobs and occupations with harmful and/or hazardous working conditions where the employment of women is restricted. The Committee notes, more particularly, that the new list reduces the number of restricted occupations for women from 456 to 100. It further notes that Order No. 313n of 13 May 2021 of the Ministry of Labour, which entered into force on 1 March 2022, amended Order No. 512 of 18 July 2019 by introducing further modifications to the existing list and providing that the list is valid until 1 March 2028. The Government states that the criteria for revising and updating this list included factors dangerous to women's reproductive health, affecting the health of future generations and having long-term consequences; besides, certain types of work that are not used in modern production were excluded from the list. The Committee notes the Government's repeated indication that section 253 of the Labour Code and the list of activities in which the employment of women is prohibited provide for a flexible approach as the employer may employ women when creating safe working conditions as confirmed by the result of a special assessment of working conditions. As a result of Order No. 313n of 13 May 2021, a State expert examination of working conditions is no longer required as confirmation of safe working conditions. The Committee notes with **interest** the amendments made by the Government to reduce the number of sectors and occupations in which women cannot be employed. It observes, however, that employment of women is still prohibited in a large number of sectors and occupations. In this regard, it notes that, in its observations, the KTR considers that the existence of even a reduced list of occupations from which women are prohibited: (1) establishes an overarching ban that affects all women in the country; (2) represents a violation of women's right to equal opportunities in employment and choice of occupation; and (3) perpetuates occupational gender segregation. The Committee further notes that, in its 2021 concluding observations, CEDAW expressed similar concerns (CEDAW/C/RUS/CO/9, paragraph 38). In that regard, the Committee recalls that a distinction shall be made between special measures to protect maternity in the strict sense, which come within the scope of *Article 5* of the Convention, and measures based on stereotypical perceptions of women's capabilities and their role in society, which are contrary to the principle of equality of opportunity and treatment (see 2012 General Survey on the fundamental Conventions, paragraph 839). Indeed, restrictions to the employment of women (who are not pregnant or are not breastfeeding) are contrary to gender equality of opportunity and treatment and may also create legal barriers preventing women to access well paid jobs, unless such measures are adopted to protect genuinely their health. This protection must be determined based on the results of a risk assessment showing that there are specific risks for the health and/or security of women. Therefore, any of these restrictions must be justified and based on scientific evidence and, where they exist, must be periodically reviewed in light of technological evolution and scientific progress to determine whether they are still necessary. Provisions regarding the protection of persons working under hazardous or difficult conditions should be aimed at protecting the health and safety of both men and women at work, while taking account of gender differences with regard to specific risks to their health. Moreover, with a view to repealing discriminatory protective measures applicable to women's employment, it may be necessary to examine what other measures, such as improved health protection of both men and women, adequate transportation and security, as well as social services, are necessary to ensure that women can access these types of employment on an equal footing with men (see also 2012 General Survey on the fundamental Conventions, paragraph 840). **The Committee therefore urges the**

Government to pursue its efforts in order to revise Order No. 512 of 18 July 2019, as amended, so as to ensure that any restrictions on the work that can be undertaken by women are not based on stereotyped perceptions regarding their capacity, aspirations and role in society and are strictly limited to those aimed at protecting maternity and based on risk assessment. It asks the Government to provide information on: (i) any progress made in this regard, including in consultation with employers' and workers' organizations; and (ii) any specific measures taken or envisaged to address the legal and practical barriers to the employment of women, in particular by amending sections 99, 113, 253, 259 and 298 of the Labour Code which provide for restrictions regarding working time (overtime, night work, work in shifts, and so on) for women with children under the age of 3 years (or 1.5 years).

Articles 2 and 3. Equality of opportunity and treatment for men and women. The Committee notes the Government's indication that the proportion of women in public and civil service positions increased from 72 per cent in 2016 to 73.2 per cent in 2019. It notes however that, according to the statistical information available in ILOSTAT, in 2020, the labour force participation rate for women remained low at 55.1 per cent, compared to 70 per cent for men. It further notes, from the statistical information of the Federal State Statistics Service (Rosstat) forwarded by the Government with its report on the application of the Equal Remuneration Convention, 1951 (No. 100), the continuing occupational gender segregation, with women being still highly concentrated in hotel and restaurant services (66 per cent), education (79.9 per cent), and healthcare and social services (79.9 per cent), while their proportion in other sectors traditionally dominated by men has been decreasing (such as construction, mining and distribution of electricity, gas and water). Referring to its previous comments regarding the adoption of the National Strategy for Women 2017–22, the Committee notes the Government's statement that regional plans were adopted and coordinating councils were established in order to implement the strategy. The Government adds that, in order to advance women's economic situation, several incentive measures and training activities were carried out in this framework. As a result, in the 2019/20 academic year, 220,300 women were trained in higher and secondary vocational education in the sector of "creative industries", mainly in hairdressing, hotel services and design. The Government adds that there has also been an increase in the number of girls and women in natural sciences and mathematics, as well as in the number of women in research institutions (357 women more in 2020). While welcoming these efforts, the Committee would like to draw the Government's attention to the importance of ensuring that measures taken to promote gender equality do not in practice reflect stereotyped assumptions regarding women's aspirations and capabilities or suitability for certain jobs, thus reinforcing gender stereotypes by promoting women's participation in areas where they are traditionally highly concentrated, such as hotel services or hairdressing. In that regard, the Committee notes that, in its 2021 concluding observations, the CEDAW expressed specific concerns at: (1) the persistence of discriminatory stereotypes concerning the roles and responsibilities of women and men in the family and in society; (2) the persistence of discriminatory gender stereotypes in school curricula and textbooks and the lack of education on gender equality; and (3) vertical and horizontal occupational segregation. The CEDAW further expressed specific concern at the situation of rural women, in particular regarding their limited access to education, formal employment, and credit and economic empowerment schemes (CEDAW/C/RUS/CO/9, paragraphs 22, 36, 38 and 42). ***In light of the persistent gender stereotypes and occupational segregation in the labour market and the absence of substantial progress made in the past years, the Committee urges the Government to step up its efforts to promote effective equality of treatment and opportunity between men and women in employment and occupation. It also asks the Government to provide information on:***

- (i) the nature and impact of the measures taken to combat stereotypes regarding women's professional aspirations, preferences and capabilities, and their role and responsibilities in the family and society, including through the diversification of the fields of vocational education and training for women;***

- (ii) the concrete measures implemented to promote and enhance the participation of women in the labour market and in decision-making positions on an equal basis with men, both in the public and private sectors; and**
- (iii) the participation of men and women in education, training, employment and occupation, disaggregated by occupational categories and positions, in both the public and private sectors.**

Equality of opportunity and treatment irrespective of race, colour and national extraction. Roma people. The Committee notes the Government's indication that a comprehensive action plan for the socio-economic and ethnocultural development of the Roma in the Russian Federation was approved in 2019 and is currently being implemented. It also notes that, in its 2019 report, the European Commission against Racism and Intolerance (ECRI) was concerned about: (1) the creation of separate "Roma classes" in certain schools is presented by the Russian authorities as a tool for responding flexibly to the situation and needs of Roma children; (2) reports from civil society organizations describing other cases of racial segregation in certain schools, for example in the Volgograd area, involving separating Roma children from others during school-meals, use of the school library or sports activities; and (3) allegations from NGOs that Roma pupils are sometimes asked by their school administration not to participate in celebrations to mark the beginning of the new school year (CRI(2019)2, page 10 and paragraph 76). The Committee further notes that, in its 2021 concluding observations, the CEDAW also expressed concern about reports of segregation and discrimination in access to education against Roma people (CEDAW/C/RUS/CO/9, paragraph 36). **The Committee asks the Government to strengthen its efforts to combat stigma, prejudices and discrimination against Roma people in order to ensure effective equality of opportunity and treatment in education, training and employment. It asks the Government to provide information on:**

- (i) the measures taken to that end, in particular in the framework of the Comprehensive Action Plan for the socio-economic and ethnocultural development of the Roma in the Russian Federation approved in 2019 or any follow-up strategy adopted, as well as on any study or report available on their impact;**
- (ii) any particular measures implemented to specifically address the segregation faced by Roma people in practice, including with regard to their access to education without discrimination; and**
- (iii) the participation of Roma people in education, professional and vocational training courses, as well as in the labour market.**

Migrant workers. Referring to its previous comments where it requested the Government to take specific measures to strengthen the enforcement of the provisions of the Labour Code prohibiting discrimination based on grounds of race, ethnicity and national origin, the Committee notes with **regret** that the Government did not provide information in this regard. It notes that, in its 2019 report, the European Commission against Racism and Intolerance (ECRI) expressed specific concern about migrant workers from Central Asia and "others of non-Slav appearance" often becoming victims of police harassment and racial profiling, which is an obstacle to their integration, as such experiences alienate the individuals concerned and, by extension, the wider relevant groups they belong to, and diminish trust in the State authorities. Furthermore, Central Asians and "others of non-Slav appearance" as well as persons of African descent are also frequent victims of racial violence, including murder in some instances (CRI(2019)2, pages 10–11 and paragraph 87). The Committee considers that it is necessary to adopt a comprehensive and coordinated approach to tackling the obstacles and barriers faced by persons in employment and occupation because of their race, colour or national extraction, and to promote equality of opportunity and treatment for all. Such an approach should include the adoption of interlocking measures aimed at: addressing gaps in education, training and skills; providing unbiased vocational guidance; recognizing and validating the qualifications obtained abroad; and valuing and

recognizing traditional knowledge and skills that may be relevant both to accessing and advancing in employment and to engaging in an occupation. The Committee also recalls that, in order to be effective, these measures must include concrete steps – such as laws, policies, programmes, mechanisms and participatory processes, and remedies – designed to address prejudices and stereotypes and to promote mutual understanding and tolerance among all sections of the population ([general observation of 2019 on discrimination based on race, colour and national extraction](#)). The Committee also refers to its 2020 observation on the Forced Labour Convention, 1930 (No. 29), where it noted allegations regarding the increased risk of falling into forced labour faced by migrant workers. ***The Committee urges the Government to adopt every necessary measure to: (i) prevent and address discrimination on the grounds of race, colour and national extraction, including by addressing prejudices and stereotypes and promoting tolerance; and (ii) ensure equality of opportunity and treatment in employment and occupation for migrant workers and students, in particular Central Asians and “others of non-Slav appearance”, as well as persons of African descent.***

It asks the Government to provide information on: (i) any specific measures implemented to that end, such as awareness-raising through media campaigns, as well as any assessment made of their impact; and (ii) any measures taken to ensure that victims of discrimination on the grounds of race, colour and national extraction have access to effective protection and remedies, including information on the number, nature and outcome of cases or complaints of discrimination on such grounds dealt with by the courts or any other competent authorities.

The Committee is raising other matters in a request addressed directly to the Government.

Saint Kitts and Nevis

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2000)

Previous comment

Articles 1(b) and 2(2)(a) of the Convention. Work of equal value. Legislation. The Committee notes with **regret** the Government's statement, in its report, that there has been no new legislation or other measures adopted since the last report. ***In view of the above, the Committee reiterates once again its request that the Government give full legislative expression to the principle of the Convention, as soon as possible, and in particular that the new legislation include provisions explicitly guaranteeing equal remuneration for men and women for work of equal value.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2000)

Previous comment

Legislative developments. Noting with regret that the Government has been providing the Committee with the same information for more than a decade now, the Committee firmly hopes that the new Labour Code will be enacted in the near future and that it will contain comprehensive provisions prohibiting:

- (i) direct and indirect discrimination,***
- (ii) at least on all of the grounds set out in Article 1(1)(a) of the Convention,***
- (iii) in all aspects of employment and occupation, and***
- (iv) for all workers.***

It also asks the Government to provide information on any additional grounds of discrimination as foreseen under Article 1(1)(b).

The Committee is raising other matters in a request addressed directly to the Government.

Sao Tome and Principe

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1982)

Previous comment

Articles 1(b) and 2(2)(a) of the Convention. Equal remuneration for men and women for work of equal value. Legislative developments. The Committee notes that the Government affirms, in its report, its belief that the national legislative framework is now in conformity with the principle enshrined in the Convention, in response to the Committee's previous comments on section 234(5) of the Labour Code. It notes however that this section requires "identical contractual conditions" for the application of the principle of equal remuneration for men and women workers for work of equal *value*, and thus does not fully reflect the principle of the Convention. In this regard, the Committee notes that the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) requested the Government to inform it about steps taken to amend the Labour Code to ensure the principle of equal pay for work of equal value (CEDAW/C/STP/Q/1-5, 7 March 2022, paragraph 16(d)). ***The Committee requests the Government to consider amending section 234(5) of the Labour Code to ensure that the overall value of the job is considered without limiting the comparison to "identical contractual conditions" and that the definition allows for the comparison, free from gender bias, of jobs of an entirely different nature, not necessarily in the same enterprise, but which may be shown, after examination, to be of equal "value". The Committee also requests the Government to provide information on: (i) the application in practice of sections 22(1) and 234(5) of the Labour Code, including any cases or complaints concerning inequality of remuneration dealt with by the labour inspectorate, the courts or any other competent authority, specifying the penalties imposed and the compensation awarded; and (ii) the awareness-raising activities undertaken on the new legislative provisions and on the principle of the Convention, including in collaboration with employers' and workers' organizations.***

Articles 2 and 3. Reducing the gender wage gap. In response to the Committee's request for information on measures taken to assess and address the gender wage gap in the formal and informal economy, the Government states that it is above all focusing its efforts on the transition from the informal to the formal economy in order to extend social protection to the entire population, still largely affected by informality. The Government recalls in this regard that there are different minimum wages applicable in the private and public sectors, determined by Decree No. 24/2015 of 18 December 2015, and that no worker may be paid less than the wage defined in that Decree. The Committee also notes, from the data provided by the Government in its report to CEDAW, that the level of labour income is relatively higher for men than for women throughout the life cycle, and that the surplus labour income of men aged 22 to 76 is about 11 times that of women, resulting in low levels of empowerment of women and girls (CEDAW/C/STP/1-5, 29 November 2021, paragraphs 59 and 60). ***Recalling that a National Statistical Development Strategy, adopted in 2018, is under implementation, with a view to reinforcing the National Statistics Institute, the Committee again requests the Government to provide updated information on the pay gap between men and women, the distribution of men and women in the different economic sectors and occupations and their respective incomes, in the public and private sectors.***

Article 4. Cooperation with workers' and employers' organizations. The Committee notes the Government's indication that the social partners were unable to meet to discuss the draft revision of Act No. 1/99 on the National Council for Social Dialogue (CNCS) due to the COVID-19 pandemic. ***The Committee requests the Government to provide information on progress made in revising Act No. 1/99***

on the CNCS and on strengthening the capacities of the workers' and employers' organizations in respect of the principle of the Convention.

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
(ratification: 1982)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Legislative developments. The Committee has been requesting the Government to ensure that the draft General Labour Act, which was under preparation, would include a prohibition of direct and indirect discrimination at all stages of the employment process and on all the grounds listed in *Article 1(1)(a)* of the Convention. The Committee notes with **satisfaction** the adoption of the Labour Code, through Act No. 6/2019 of 16 November 2018, and more particularly sections 15–17, which define and prohibit both direct and indirect discrimination in access to employment, vocational training and promotion and working conditions, based on the grounds of ancestry and social origin, race, colour, age, sex, sexual orientation, marital status, family status, genetic heritage, reduced working capacity, disability or chronic illness, nationality, ethnic origin, religion, political or ideological beliefs and trade union membership. It further notes that section 18 of the Labour Code defines and prohibits both quid pro quo and hostile work environment sexual harassment, which is expressly defined as a form of discrimination. It notes that, in accordance with section 20, any employee or jobseeker adversely affected by discriminatory practices would be entitled to receive compensation. The Committee notes that, pursuant to section 3(1)(a) and (2) of Act No. 6/2019, the provisions on equality and non-discrimination and sexual harassment at the workplace apply to public employees. In that respect, it further notes the adoption of Act No. 2/2018 of 22 November 2017, amending Act No. 5/1997 on the Civil Service Statute, and more particularly new section 52(B)(1)(e), which provides that civil servants are prohibited from exerting pressure, threatening or harassing other officials or agents or subordinates that may affect the dignity of the person, or include malicious actions. **The Committee asks the Government to provide information on the application in practice of sections 15–18 and 20 of the Labour Code, as well as section 52(B)(1)(e) of the Civil Service Statute. The Committee also asks the Government to provide information on any concrete measures taken to raise public awareness and understanding of the relevant new legislative provisions, the procedures and remedies available, in particular for employers, workers and the general public. It asks the Government to provide detailed information on the number and nature of cases of direct and indirect discrimination in employment and occupation dealt with by labour inspectors, the courts or any other competent authorities, as well as the sanctions imposed and compensation awarded.**

Articles 2 and 3. Equality of opportunity and treatment of men and women. Policies and institutions. The Committee previously noted the adoption of the National Strategy for Gender Equality and Equity (ENIEG) for 2007–12, dealing with issues relating to women's equality in the world of work, as well as the establishment of the National Institute for the Promotion of Gender Equality and Equity (INPG) under the Ministry of Labour to implement the ENIEG. Referring to its previous request concerning statistical information on the participation of men and women in vocational training and the labour market, the Committee notes the Government's general indication, in its report, that such information is not available so far, but that women's access to decision-making positions and vocational training has improved. The Committee however notes that, according to the latest available statistical information from the National Statistics Institute (2012): the women's unemployment rate was more than twice as high as that of men (19.7 per cent compared to 9.3 per cent for men), while women's labour force participation rate was nearly twice as low as men's (41.3 per cent and 75.4 per cent, respectively), with women being mostly concentrated in low-skilled jobs, such as the unskilled labour force (71 per cent of women), domestic workers (94 per cent) and services or trade (58.9 per cent). It notes that, according to the NSI, women mostly work in the informal economy, which accounts for 75.7 per cent of the economically active population. Furthermore, only 31.1 per cent of women have attained at least a secondary level of education (compared with 45.2 per cent of men). The Committee notes that the Decent Work Country Programme, 2018–21, adopted in July 2018, sets as a specific objective the promotion of productive employment for all, in particular for young persons and women, including by raising awareness and encouraging the transition from the informal to the formal

economy, enhancing women's entrepreneurship and access to vocational training, as well as strengthening the INE. The DWCP further explicitly aims at building this capacity of the tripartite constituents to promote, inter alia, gender equality and non-discrimination. The DWCP refers to the adoption of: (i) a Second National Strategy for Gender Equality and Equity (ENIEG II) for 2013–17 which highlights that one of the main challenges is that men and women benefit from equal opportunities to effectively achieve financial autonomy; and (ii) the National Employment Policy (PNE) in 2015, which highlights the importance of decent work and sets as specific objectives to strengthen technical education and vocational training and promote women's entrepreneurship, and its accompanying Action Plan on Employment and Vocational Training (PANEF), adopted in 2017, both developed in collaboration with the ILO. It also notes with *interest* the ratification of the Maternity Protection Convention, 2000 (No. 183), on 12 June 2017. ***The Committee asks the Government to provide information on any specific measures taken, particularly in the framework of the ENIEG II, the PNE, the PANEF and the DWCP 2018–21, to effectively enhance women's economic empowerment and access to the formal economy and vocational training, including in sectors where they are under-represented, and to improve equality of opportunity and treatment for men and women in employment and occupation, in both the public and private sectors, including in collaboration with employers' and workers' organizations. Noting that a National Statistical Development Strategy for 2018–21 is currently being implemented, the Committee hopes that the Government will soon be in a position to collect and provide updated statistical information on the participation of men and women in vocational training and the labour market, indicating the proportion of men and women in the various economic activities, disaggregated by occupational categories and positions, in both the public and private sectors, as well as in the informal economy.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Serbia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2000)

Previous comment

The Committee notes the Government's reports received in 2017 and 2022. The Committee notes the observations of the Serbian Association of Employers (SAE) and the Confederation of Autonomous Trade Unions of Serbia (CATUS), received with the Government's report.

Article 1(1)(a) of the Convention. Discrimination based on sex. Sexual harassment. The Committee previously noted that section 21(2) of the Labour Code of 2005 concerning sexual harassment did not cover quid pro quo sexual harassment. The Committee welcomes the adoption of the Law on Gender Equality 2021, which replaces the Law on the Equality of Sexes 2009. The Committee notes that the Law on Gender Equality 2021 defines and prohibits sexual harassment; however, it remains unclear if the definition prohibits both quid pro quo and hostile work environment sexual harassment. The Committee notes, from the 2020 Labour Inspection Report, provided by the Government, that no cases of sexual harassment at work were reported to the labour inspectorate that year. The Committee further notes, from the concluding observations of the United Nations (UN) Committee on the Elimination of Discrimination against Women (CEDAW), the lack of measures to address sexual harassment in the workplace, specifically with regard to young women and lesbian, bisexual and transgender women and intersex persons, and the disproportionately low number of convictions for sexual harassment, which adversely affects women's possibilities for employment and promotion (CEDAW/C/SRB/CO/4, 14 March 2019, paragraph 35). ***The Committee requests the Government to clarify: (i) which provisions of the Law on Gender Equality 2021 define and prohibit sexual harassment at work; and (ii) the definition given to sexual harassment at work, and if both quid pro quo and hostile work environment sexual harassment are covered by the new legislation.***

With a view to strengthening the protection against sexual harassment at work and harmonizing the legislation, the Committee once again requests the Government to consider amending section 21 of the Labour Code to also include protection against quid pro quo sexual harassment, and to provide information on any progress made in this respect. Finally, the Committee requests the Government to: (i) step up its efforts in ensuring the effective application of the provisions on sexual harassment, including through measures to address and prevent it in practice, such as awareness-raising and training activities; and (ii) provide information on any cases of sexual harassment at work addressed by the competent authorities.

Article 2. Equality of opportunity and treatment for men and women. The Committee welcomes the adoption, in 2021, of the Act to supplement the Prohibition of Discrimination. The Committee notes, from the statistical information provided by the Government that the rate of economic activity of women of working age (15–64 years old) has increased from 55.7 per cent in 2015 to 60.8 per cent in 2020, while the unemployment rate of women has decreased from 19.2 per cent in 2015 to 9.9 per cent in 2020. Despite the progress made, the Committee notes that, in comparison, in 2020, the rate of economic activity of men of working age was 74.6 per cent and the unemployment rate of men, 9.2 per cent. The Committee notes, from the 2021 annual report of the Commissioner for the Protection of Equality, the adoption of the new Gender Equality Strategy 2021–2030 and the Strategy for Preventing and Combating Gender-based Violence against Women and Domestic Violence 2021–2025. It notes, that among the 595 complaints received by the Commissioner for the Protection of Equality in 2021, 99 of them concerned cases of discrimination based on sex, most of them in relation to employment and occupation. The report establishes that one of the key causes of gender discrimination is the firmly rooted, traditional, patriarchal stereotypes about gender roles in the family and the wider community. In this regard, the Committee notes the report of the UN Entity for Gender Equality and the Empowerment of Women (UN Women) entitled “Economic Value of the Unpaid Care Work in the Republic of Serbia”, which highlights that unpaid care work is the reason for inactivity among women in greater percentages than among men: in 2018, the inactivity rate for women amounted to 39.4 per cent, versus 24.9 per cent for men. Care for own children or others in need is the reason for inactivity for 7 per cent of women and 0 per cent of men, and family or personal reasons are the cause of inactivity for 9 per cent of women and 5 per cent of men. In this regard, the Committee refers to paragraph 783 of its [2012 General Survey on the fundamental Conventions](#). The Committee further notes, from the concluding observations of the CEDAW, that the Coordination Body for Gender Equality lacks adequate budget, staff, political independence and sustainability. The CEDAW also highlights that women are severely under-represented in local administration, the foreign service, the armed forces and in decision-making positions across all sectors (CEDAW/C/SRB/CO/4, paragraphs 15 and 27). ***The Committee welcomes the adoption of the Gender Equality Strategy 2021–2030 and requests the Government to provide information on measures taken by the Coordination Body on Gender Equality or by any other authority, to implement the Gender Equality Strategy 2021–2030, including measures to: (i) increase the access of women to formal employment; (ii) address occupational segregation between women and men including in recruitment and promotion; (iii) address the stereotypes and assumptions regarding women’s aspirations and capabilities as well as regarding their suitability for certain jobs; (iv) promote the equal sharing of family responsibilities between women and men; and (v) increase compliance with legal provisions regarding maternity protection. The Committee welcomes the statistical information provided by the Government and requests it to continue to provide such information, disaggregated by sex, indicating the results of the measures taken above.***

Articles 1 and 3(d). Equality of opportunity and treatment for men and women. Retirement age of women in the public sector. ***The Committee refers to its previous comment and asks the Government to take the necessary measures, in cooperation with the social partners, to ensure that there is no direct or indirect discrimination based on sex with respect to the age of retirement in the public sector, and that the working life of women is not shortened in a discriminatory manner.***

The Committee is raising other matters in a request addressed directly to the Government.

Singapore

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2002)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Assessing and addressing the gender pay gap. The Committee recalls the lack of legislation requiring equal remuneration for men and women for work of equal value. The Committee previously noted the Guidelines issued by the Tripartite Alliance for Fair Employment Practices (TAFEP) on 3 May 2007, which include a section on remuneration stating that "[e]mployers should pay employees wages commensurate with the value of the job [...] regardless of age, gender, race, religion and family status, employees should be paid and rewarded based on their performance, contribution and experience". It notes, from the TAFEP's website, that as of September 2019, 7,144 organizations have signed the Employers' Pledge for Fair Employment Practices, which is a public commitment from employers to create fair and inclusive workplaces according to the TAFEP's Guidelines. The Committee notes the Government's statement, in its report that, in July 2017, Tripartite Standards (TSes) were introduced to enhance fair and progressive employment practices on flexible work agreements, recruitment practices and unpaid leave for unexpected care needs. Noting that the TAFEP continued training workshops to assist employers implementing fair and progressive employment practices, the Committee notes the Government's indication that the Human Capital Partnership (HCP) Programme was launched in 2017 by tripartite partners to "grow an inclusive community of progressive employers", and will be managed by the TAFEP. The Committee however observes that the Government does not provide information on any measures taken by the TAFEP to promote specifically the principle of equal remuneration for men and women for work of equal value. While noting the Government's statement that the gender pay gap was estimated at 11.8 per cent in 2017 with broad-based improvement across most occupational groups, the Committee notes, from the statistical information provided by the Government, that in 2017 the median gross monthly salary of women employed in the same occupational category as men was systematically lower than that of men, except for clerical support workers where it was slightly higher. It notes in particular that the gender wage gap was estimated at 12.2 per cent for managers and administrators; 18.7 for working proprietors; 14.4 for professionals and still remains wider for craftsmen and related trades workers (22.3 per cent) and plant and machine operators and assemblers (19.1 per cent). The Committee notes the Government's indication that the wage gap can be attributed to the fact that women are more likely to exit the workforce or have intermittent patterns of work, for reasons such as childcare and the care of the elderly. The Government adds that its approach to address the gender pay gap is to empower women with choices to stay in the workforce, instead of having to exit it to fulfil caregiving responsibilities. In this regard, the Committee welcomes the adoption and implementation of measures to assist women to enter, re-enter or remain in the workforce, including through flexible working arrangements and the introduction of measures to encourage shared parental responsibilities (such as a two weeks paid paternity leave and the possibility for fathers to share up to four weeks of their wife's maternity leave). The Committee however notes that, in its 2017 concluding observations, the United Nations (UN) Committee on the Elimination of Discrimination against Women (CEDAW) remained concerned about: (i) the persistent gender wage gap in all occupational categories, except clerical support; (ii) the continued vertical and horizontal occupational segregation in both the public and private sectors; (iii) the persistence of discriminatory stereotypes about the role of women as primary caregivers, including as caregivers of older persons; (iv) the fact that women still remain underrepresented in traditionally male-dominated fields of study, such as engineering, electronics and information technology, at the tertiary level; as well as (v) the underrepresentation of women on corporate boards, notwithstanding their high educational and professional achievements and qualifications. The Committee further notes that the CEDAW recommended that "the Government reduces the gender wage gap by regularly reviewing wages in sectors in which women are concentrated and by establishing effective monitoring and regulatory mechanisms for employment and recruitment to ensure that the principle of equal pay for work of equal value is adhered to in all sectors" (CEDAW/C/SGP/CO/5, 21 November 2017, paragraphs 18, 26, 28 and 29). The Committee notes that the CEDAW, as well as the UN Independent Expert on the enjoyment of all human rights by older persons, also expressed specific concern that older women

frequently lack sufficient savings to sustain a living as a result of the gender pay gap, a lack of employment opportunities and their caregiving responsibilities, and are therefore forced to continue to work beyond their retirement age in low-paid and low-skilled occupations (CEDAW/C/SGP/CO/5, 21 November 2017, paragraph 38 and A/HRC/36/48/Add.1, 31 May 2017, paragraphs 27 and 93). ***In light of the absence of a legislative framework providing for equal remuneration for men and women for work of equal value and the persistence of significant gender wage gaps, in particular in sectors where women are traditionally concentrated, the Committee asks the Government to take proactive measures, including legislative measures in the framework of the Tripartite Alliance for Fair Employment Practices, to establish the principle of the Convention and raise awareness among workers, employers and their respective organizations, as well as among law enforcement officials of the right to equal remuneration for men and women for work of equal value. It also asks the Government to continue to take measures to address the underlying causes of the gender wage gap, such as vertical and occupational gender segregation and stereotypes relating to the aspirations, preferences and abilities of women, including by encouraging girls and women to choose non-traditional fields of study and professions and promoting their access to jobs with career prospects and higher pay. The Committee asks the Government to continue to provide statistical information on the level of earnings of men and women, disaggregated by economic activity and occupational group, both in the public and private sectors.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Slovakia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

Previous comment

Articles 1(b) and 2(2)(a) of the Convention. Work of equal value. Legislation. For more than a decade, the Committee has been drawing the Government's attention to the fact that section 119a(2) of the Labour Code does not give full expression to the concept of work of equal value. The Committee notes that the Government, in its report, considers its legislation to be in line with the principle of the Convention and further states that the Labour Code cannot be a comprehensive tool for resolving different wages for different employers and in different sectors. The Committee notes with **regret** that the legislation continues to be narrower than the principle of the Convention and refers the Government to its [2012 General Survey on the fundamental Conventions](#), paragraphs 676–679 and 697–698. ***The Committee urges the Government to take the necessary steps to amend the definition of “work of equal value” provided for in section 119a(2) of the Labour Code, in order to give full legislative expression to the principle of the Convention. In doing so, the Committee requests the Government to ensure that, when determining whether two jobs are of equal value, the overall value of the jobs is considered and that the definition allows for jobs of an entirely different nature to be compared free from gender bias and that the comparison goes beyond the same employer. Noting the absence of information provided in this regard, the Committee again asks the Government to provide information on the application in practice of section 119a(2) of the Labour Code, including by providing concrete examples of the manner in which the term “work of equal value” has been interpreted in administrative or judicial decisions.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1993)

Previous comment

Articles 1 and 2 of the Convention. Discrimination on the basis of race or national extraction in education, vocational training, employment and occupation. Roma. For more than 15 years, the Committee has been referring to the discrimination faced by the members of the Roma Community and their difficulties in integrating into the labour market. The Committee notes, from the Government's report, the adoption of the Strategy for the Integration of Roma until 2030 ("the 2030 Strategy"). The Government indicates that "employment" is one of the four priority areas of the 2030 Strategy, and that sub-objective 4 aims to "reduce discrimination in the labour market and other forms of anti-Roma racism". The Committee notes that Action Plans for the period 2022–24 are to be adopted under the 2030 Strategy, including awareness-raising programmes for employees and employers on diversity in the workplace and the creation of counselling structures to assist with the identification and subsequent reporting of discrimination in the labour market. The Committee notes, from the Government's report on the application of the Workers With Family Responsibilities Convention, 1981 (No. 156), that the new Recovery and Resilience Plan aims to support and fund early care services for marginalized Roma communities to strengthen equality between women and men, and to develop the reading literacy and parental skills of mothers, with the aim of increasing mothers' self-confidence and commitment to the labour market after parental leave. However, the Committee notes with **regret** that, despite its numerous requests to assess the results of the existing programmes and to communicate the results of this assessment, the Government's report provides no information on this point. In this regard, the Committee refers to its [2012 General Survey on the fundamental Conventions](#), paragraph 858. The Committee also notes with **regret** the Government's statement that statistical information as well as data on cases of discrimination are not available. The Committee recalls that appropriate data and statistics are crucial to determine the nature, extent and causes of discrimination, including against Roma, to set priorities and design appropriate measures, to monitor and evaluate the impact of such measures, and to make any necessary adjustments (see the 2012 General Survey on the fundamental Conventions, paragraph 891). ***The Committee asks the Government to take the necessary steps to ensure that the results and impact of the actions and programmes implemented, including within the framework of the action plans to the Strategy for the Integration of Roma up to 2030 and the Recovery and Resilience Plan, are assessed, and asks the Government to communicate the results of this assessment. The Committee also asks the Government to continue to take proactive measures to ensure that acts of discrimination against Roma people in employment and occupation are effectively prevented and eliminated, including through active awareness-raising addressing stereotypes and prejudices, and to provide information on the Action Plans adopted under the 2030 Strategy. Noting the lack of information provided in this regard, the Committee once again strongly urges the Government to bring an end to the segregation of Roma pupils in schools. It asks the Government to provide information on: (i) the steps taken to end the above-mentioned segregation of Roma pupils in schools (and the results thereof); (ii) the steps taken or envisaged to obtain statistical information, disaggregated by sex, on the labour market situation of Roma people; and (iii) any discrimination cases dealt with by the labour inspectorate, the Ombudsperson or the courts, or other competent authorities, as well as the sanctions imposed and remedies granted.***

The Committee is raising other matters in a request addressed directly to the Government.

Workers with Family Responsibilities Convention, 1981 (No. 156) (ratification: 2002)

[Previous comment](#)

Practical application. Lack of statistical information. With regard to its previous comments, the Committee notes with **regret** that the Government provides no information on the progress made towards the establishment of a new central statistics system and that once again it does not provide most of the statistical information requested. The Committee once again recalls the importance of collecting and analysing sufficiently detailed statistical information in order to determine and assess the

current situation of workers with family responsibilities, design appropriate responses and monitor and evaluate the impact of the measures which are being implemented. ***The Committee requests the Government to strengthen its efforts to collect comprehensive and sufficiently detailed data on the issues covered by the Convention, and to provide information in this regard, including on the progress made in establishing the new central statistics system. In the meantime, the Committee requests the Government to continue to provide all available information, including statistical data disaggregated by sex, any studies, surveys or reports that may enable the Committee to fully assess how the provisions of the Convention are applied in practice.***

Articles 4(a) and 7 of the Convention. Measures to promote free choice of employment and integration in the labour market. In reply to the Committee's previous comment on the impact of the presence of young children on the employment rate of men and women and on the barriers to women's access to employment, the Government indicates, in its report, that the "Reconciliation of Family and Working Life" national project started in September 2019. Its main objective is to improve the conditions for reconciling work and family life and increase the employment of people with parental responsibilities, especially women, by allowing employers who create jobs for workers with family responsibilities to apply for a financial contribution for a maximum of 12 months, depending on the duration of the contract, to cover up to 95 per cent of the total labour costs, not exceeding €844 (which represents 1.2 times the minimum wage). The Government indicates that the project is expected to provide employment to approximately 1,000 women and that, by 2020, 694 unemployed persons had been hired, 690 of whom were women, and 377 were women with children below 6 years of age. ***With reference to its previous comment and its general observation on workers with family responsibilities, which was adopted in 2019, the Committee requests the Government to continue and intensify its efforts to overcome the persistent obstacles faced by workers with family responsibilities, more particularly by mothers with young children, in exercising their right to free choice of employment and entering or re-entering into the labour market and participating in vocational training. It requests the Government to provide information on the concrete measures taken to this end and the results achieved in this regard, and to specify the number of women and men with children below 6 years of age and with children between 6 and 10 years of age who have accessed employment or received other benefits under these measures. The Committee also asks the Government to continue to provide up-to-date information on the results achieved under the "Reconciliation of Family and Working Life" project in giving effect to the provisions of the Conventions. Noting the absence of information in this regard, the Committee once again requests the Government to provide a copy of any collective agreements containing specific provisions in favour of workers with family responsibilities.***

Article 6. Educational programmes. ***With reference to its previous comments and in the absence of a reply from the Government on this point, the Committee once again requests the Government to strengthen its efforts to take effective and proactive measures, such as public awareness-raising campaigns and education initiatives, to promote a more equitable sharing of family responsibilities between men and women, as well as a broader public understanding of various aspects of employment of workers with family responsibilities. It requests the Government to provide information on any survey, studies or programmes undertaken to this end, as well as specific information on the impact of such initiatives and any follow-up measures implemented.***

The Committee is raising other matters in a request addressed directly to the Government.

Slovenia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1992)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Protection of workers against discrimination. Legislation. The Committee notes with **interest** the adoption of the Protection against Discrimination Act which came into force on 24 May 2016 and which replaced the Implementation of the Principle of Equal Treatment Act of 2004. It notes that the Act strengthens protection against direct and indirect discrimination and harassment and sexual harassment, irrespective of sex, nationality, race or ethnic origin, language, religion or belief, disability, age, sexual orientation, sexual identity or sexual expression, social status, property status, education, or any other personal circumstance in various fields of social life including employment and occupation. The Committee notes that the Act does not explicitly refer to political opinion in the list of grounds covered. The Government reports that the Act's non-exclusive list of grounds which includes "any other personal circumstance", and the protection against employment discrimination provision on the ground of "belief" in the Employment Relationship Act of 2013, along with article 14 of the Constitution, which guarantees everyone equal human rights and fundamental freedoms irrespective of political or other conviction, among other grounds, provides protection against "inadmissible" unfavourable treatment on the basis of political conviction. The Committee further notes that the new Act established the new Advocate of the Principle of Equality as an independent body with enforcement powers. In the field of employment, the Committee notes that this Act overlaps and reinforces the existing non-discrimination provisions in the Employment Relationship Act of 2013, as amended. **The Committee asks the Government to provide information on the measures adopted to promote and apply the Discrimination Act of 2016 as well as the non-discrimination provisions in the Employment Relationship Act of 2013, as amended, with respect to employment and occupation in the public and private sectors, including any steps taken to raise awareness among employers and workers. The Government is also asked to provide detailed information on the implementation of the protection against discrimination on the ground of political opinion. The Government is asked to provide information on the functioning of the office of the Advocate of the Principle of Equality and on any steps taken by the Advocate's Office to enforce the Discrimination Act in employment and occupation, including the number of cases dealt with and the ground of discrimination concerned, disaggregated by sex.**

Article 1(1)(a). Discrimination on the ground of national extraction. The Committee recalls its previous concerns regarding non-Slovenes from the former Socialist Federal Republic of Yugoslavia, namely "erased people" and the difficulties they face in terms of access to social and economic rights, including access to education and employment, because of the loss of their citizenship and by extension their right to remain in the country. The Committee recalls that, on 26 February 1992, 1 per cent of the population of Slovenia (25,671 people) was removed overnight from its registry of permanent residents, following the declaration of independence of Slovenia. "Erased people" are mostly of non-Slovene or mixed ethnicity, and they include a significant number of members of Roma communities. The Committee notes that the Act Regulating the Legal Status of Citizens of the Former Yugoslavia Living in the Republic of Slovenia, 1999, as amended in 2010, expired on 24 July 2017. It notes from the report of the Government that, between 1999 and 31 December 2013, 12,373 permanent residence permits were issued under this Act; and from 1 January 2011 to 31 August 2017, 316 additional residence permits were issued. It further notes that, following the judgment of the European Court of Human Rights in *Kuric et al v. Slovenia*, the Committee of Ministers decided in May 2016 that the Act Regulating Compensation for Damage to Persons Erased from the Permanent Population Register, 2013, satisfied the judgment of the European Court of Human Rights and, thus, concluded the case. The Committee notes that this Act has begun to be implemented. However, it notes that the United Nations Special Rapporteur on minority issues, in its report following its visit to Slovenia (5–13 April 2018) highlighted that the situation of "erased people" (who for the most part are members of various ethnic, religious or linguistic communities of the former Socialist Federal Republic of Yugoslavia) – is still unsettled, as compensation is still being fought over – despite the judgements made by the European Court of Human Rights and a decision by the Constitutional Court in April 2018 ruling against the limitations for those who filed claims for damages in judicial processes on the amount of compensation awarded. The Committee notes also that the UN High Commissioner for Human Rights and the Commissioner for Human Rights of the Council of Europe, among others, have expressed their concern at this matter (A/HRC/40/64/Add.1, 8 January 2019, paragraphs 52–55). **In light of the Constitutional Court ruling, the Committee urges the Government to take steps to provide a fair compensation scheme to "erased people" still awaiting to be compensated, to take into account losses such as property or employment and to continue to provide information on the steps taken and the results achieved.**

Article 2. Equality of opportunity and treatment. Roma. The Committee recalls that for a number of years it has highlighted that one of the main reasons for the high unemployment rate among Roma people is their

education level. Hence, its previous request to the Government to pursue its efforts to promote equal access for Roma to education and training, and to provide information on: (i) the measures implemented to promote access to employment and to particular occupations of Roma men and women, including a description of the community work programmes, and their concrete results; (ii) the reasons for focusing primarily on community work in the context of employment programmes; and (iii) the measures taken to prevent and address discrimination, stereotypes and prejudice against the Roma community. The Committee recalls that, under *Article 1(3)* of the Convention, “employment and occupation” explicitly includes “access to vocational training”. Moreover, in paragraph 750 of its General Survey of 2012 on the fundamental Conventions, the Committee highlights that access to education and to a wide range of vocational training courses is of paramount importance for achieving equality in the labour market [as] it is a key factor in determining the actual possibilities of gaining access to a wide range of paid occupations and employment, especially those with opportunities for advancement and promotion. The Committee adds that not only do apprenticeships and technical education need to be addressed, but also general education, “on the job training” and the actual process of training.

The Committee notes the very detailed information provided by the Government on the labour market situation of the Roma people and the range of measures adopted to improve their situation in education and employment. The Government states that it places great importance on measures (systemic, specific, and project-based) for the effective integration of Roma children in education. The Committee notes that from 2015 to 2017 there has been a slight decrease in unemployment and a slight increase in the employment of Roma men and women, with men having higher employment rates than women. It notes that Roma people continue to be a target group of the Active Employment Policy and that over 2,400 Roma participate, annually, in programmes including formal and informal education, training, career counselling, job-seeking assistance and public works projects. The Committee further notes the adoption of the National Programme of Measures for the Roma for the 2017–21 period, which includes raising educational levels, reducing unemployment, elimination of prejudice, stereotypes and discrimination, preserving Roma culture, language and identity, among its objectives. The Committee notes that the Commissioner for Human Rights of the Council of Europe, in its 2017 report, recognized that Slovenia has a solid legislative and policy framework for promoting Roma rights and welcomed the recent adoption of a revised National Programme of Measures for Roma 2017–21, which includes a plan for strengthening the pre-school education of Roma children; the tutoring system for Roma pupils; Slovenian language learning; the inclusion of Roma in the apprenticeship system; and the training of education professionals who work with Roma children. The Commissioner however observed that, if officially segregation (schooling in separate classes) is no longer present, *de facto* the situation is still not satisfactory, for example: (i) Roma children continue to be underrepresented in pre-schools and overrepresented in special needs schools, with about 12.2 per cent of Roma children being directed to such schools in the school year 2017–18 in comparison with 6.18 per cent of other children; (ii) in kindergartens they can be placed together with other children in mixed kindergarten classes or in “special classes” (which is possible only in the regions with large Roma populations); (iii) there is still a high level of absenteeism from school and drop-out rates in some regions; and (iv) a very low number of Roma children who reach secondary and tertiary education in the country (over 60 per cent of Roma have not completed elementary school). The Commissioner noted that teachers, Roma children and parents generally acknowledge that many of the difficulties Roma children encounter in primary schools are due to language barriers as many Roma children have no or limited command of the language spoken by the majority population. He also identified the following additional reasons for this as: insufficient value placed on education by families; poor housing conditions that do not allow families to make school a priority; early marriages and pregnancies; and criminality among teenage boys. The Committee notes further that, in its 2019 Country Report on Non-Discrimination in Slovenia, the Network of legal experts in gender equality and non-discrimination of the European Commission, observed that “In Slovenia, there are specific trends and patterns (whether legal or societal) in education regarding Roma pupils, such as segregation.” In addition, the Committee notes that, the United Nations Special Rapporteur on Minority issues commended Slovenia for the considerable efforts it has made in recent years to improve the situation of Roma and the protection of their human rights, including in key areas such as education and employment. The Special Rapporteur noted that Slovenia does not officially collect disaggregated data on ethnicity, language or religion, and for this reason, no one has a clear idea of the actual size of the country's most vulnerable and marginalized minorities; and that no disaggregated population data have been collected since 2002. The Special Rapporteur however observed that the Roma (and the Sinti) continue to be the most marginalized and

vulnerable minorities and recommended inter alia temporary affirmative action programmes in employment and increased awareness-raising campaigns to provide a more rounded view of members of the Roma community (A/HRC/40/64/Add.1, 8 January 2019, paragraphs 20, 29, 33, 62). While welcoming the various initiatives taken by the Government to promote non-discrimination, education and employment of Roma, women and men, the Committee wishes to stress that the unemployment rate for Roma people continues to be high and that improving access to education is key to combat marginalisation and poverty experienced by the Roma people. ***The Committee asks the Government to pursue its efforts to promote equal access for Roma people to education (in particular through a better access to pre-school education and the employment of suitably trained Roma teaching assistants), training and employment programmes. At the same time, the Committee asks the Government to increase its efforts to address discrimination and prejudice against the Roma community and to take steps to encourage Roma women and men to participate in programmes which will lead to their employment. Observing that there remains a fundamental gap between adopted policies and programmes on the one hand and reality as experienced by members of the Roma minority on the other hand, the Committee asks the Government to continue to provide detailed information on the results of the various initiatives taken to promote non-discrimination in education and employment of Roma women and men. Finally, recalling that appropriate data and statistics are crucial in determining the nature, extent and causes of discrimination, to set priorities and design appropriate measures, to monitor and evaluate the impact of such measures, and make any necessary adjustments, the Committee asks the Government to take steps to collect and analyse relevant data, including comparable statistics to enable an accurate assessment of changes over time while being sensitive to and respecting privacy.***

General observation of 2018. With regard to the above issues and in more general terms, the Committee would like to draw the Government's attention to its general observation on discrimination based on race, colour and national extraction which was adopted in 2018. In the general observation, the Committee notes with concern that discriminatory attitudes and stereotypes based on the race, colour or national extraction of men and women workers continue to hinder their participation in education, vocational training programmes and access to a wider range of employment opportunities, resulting in persisting occupational segregation and lower remuneration received for work of equal value. Furthermore, the Committee considers that it is necessary to adopt a comprehensive and coordinated approach to tackling the obstacles and barriers faced by persons in employment and occupation because of their race, colour or national extraction, and to promote equality of opportunity and treatment for all. Such an approach should include the adoption of interlocking measures aimed at addressing gaps in education, training and skills, providing unbiased vocational guidance, recognizing and validating the qualifications obtained abroad, and valuing and recognizing traditional knowledge and skills that may be relevant both to accessing and advancing in employment and to engaging in an occupation. The Committee also recalls that, in order to be effective, these measures must include concrete steps, such as laws, policies, programmes, mechanisms and participatory processes, remedies designed to address prejudices and stereotypes and to promote mutual understanding and tolerance among all sections of the population. ***The Committee draws the Government's attention to its general observation of 2018 and requests the Government to provide information in response to the questions raised in that observation.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Workers with Family Responsibilities Convention, 1981 (No. 156) (ratification: 1992)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 3 and 4 of the Convention. National policy, non-discrimination, leaves and benefits. Legislative developments. The Committee notes with **interest** the substantial amendments to the Parental Protection and Family Benefits Act in 2014, 2015, 2017 and 2018, which have the objective of transposing European legislation, including Council Directive 2010/18/EU, and of facilitating a more equal distribution of parental protection and childcare responsibilities between both parents. The Committee welcomes the various entitlements provided under the Act, including longer paternity leave, paternity leave benefit, parental leave

for both parents, parental leave benefits, the possibility of reduction from full-time to part-time work, and other family and child support allowances and assistance. The Committee also notes the adoption of the Protection against Discrimination Act 2016 which prohibits discrimination on the basis of a number of specified grounds and on the basis of “any other personal circumstance”, and which covers all areas of social life, including employment. It further notes that explanatory information about the 2016 Act on the official website of the Ministry of Labour, Family, Social Affairs and Equal Opportunities, indicates that an example of “any other personal circumstance” could be “parental or other family status”. The Committee notes the adoption on 20 June 2019 of EU Directive 2019/1158 on work-life balance for parents and carers, repealing Council Directive 2010/18/EU on parental leave. **Noting the recent adoption of EU Directive 2019/1158 on work-life balance, the Committee asks the Government to provide information on: (i) the steps taken to transpose it into its national legislation; (ii) the manner in which the Parental Protection and Family Benefits Act of 2014, as amended, has been implemented in practice by both men and women taking up the various entitlements provided under the Act; (iii) the impact of this Act on any increase in the use of these measures by men; and (iv) the manner in which the Protection against Discrimination Act 2016 has been implemented to promote application of the Convention with respect to non-discrimination in employment of persons with family responsibilities, including any action taken under the office of the Advocate of the Principle of Equality.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

South Africa

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1997)

Previous comment

The Committee notes the observations made by the social partners within the National Economic Development and Labour Council (NEDLAC) and communicated with the Government's report.

Articles 1 and 2 of the Convention. Discrimination based on race, colour and national extraction. Affirmative action. The Committee notes with **interest** the Government's indication, in its report, that it is implementing various initiatives in order to strengthen its efforts in promoting equality of treatment and opportunities of all designated groups, such as: (1) conducting annual employment equity workshops nationally with workers, employers and their representative organizations and other interested parties; and (2) forging strategic partnerships between the Commission for Employment Equity (CEE) and various key institutions such as the Commission for Gender Equality, the South African Human Rights Commission, the National Skills Authority, the Broad-Based Black Economic Empowerment Commission, the Department of Youth and Persons with Disabilities in the Presidency, the Commission for Conciliation, Mediation and Arbitration (CCMA), the Public Employment Services and the Inspections and Enforcement Services Branches of the Department of Employment and Labour. The main objectives of these partnerships are to raise awareness on the right to equality, dignity and fair treatment and to ensure there is coherence in the various policy instruments and implementation. The Government adds that the labour inspectors conduct employment equity inspections to assess the legal compliance with the Employment Equity Act, 1998 (EEA).

The Committee notes that the Government refers to the process of amending the Employment Equity Act 1998 with a view to: (1) empowering the Minister of Employment and Labour to regulate sector specific employment equity targets in order to address the slow pace of transformation in the labour market until now and achieve equitable representation of the designated groups, namely, black people, women, and persons with disabilities; (2) exempting employers with less than 50 employees from implementing Chapter III of the EEA on affirmative action; and (3) regulating assessment criteria

for the issuing of employment equity compliance certificates as a prerequisite for accessing state contracts (section 53 of the EEA). In this regard, the Committee further notes that the Employment Equity Amendment Bill was adopted by Parliament (National Assembly and National Council of Provinces) on 17 May 2022. The Committee notes that the workers' representatives within NEDLAC welcome the amendments of the EEA, but underline that the main issue is the non-implementation of section 53. The Committee also notes that the Chief Director of Statutory and Advocacy Services within the Department of Employment and Labour indicated in March 2022 that, in the past financial year, 60 per cent of employers had been referred to prosecution for failure to comply with the employment equity legislation; and that the review process of the Director-General of the Department of Employment and Labour (under section 43 of the EEA) revealed a 94 per cent non-compliance rate with the EEA. It further notes the information, shared by the Minister of Employment and Labour and the Chairperson of the CEE on the launch of the 22nd CEE Annual Report (April 2021-March 2022), that the labour market compliance levels with the EEA "remain[ed] regrettably low", echoing in this the findings of the CEE. White and Indian population groups remained over-represented at top management, senior management and professionally qualified/middle management levels, against their Economically Active Population (EAP) rate. White people represented 63.2 per cent of top managers and 51.4 per cent of senior managers whereas the African and Coloured population groups were grossly under-represented at these levels (even at the professionally qualified/middle management level, the African population group was approximately 33 per cent below their EAP rate). It is worth noting that, at the top management level, the representation of the White population group was approximately seven times their EAP rate in the private sector (and just below their EAP in the public service) whereas the African population group representation was nearly six times below their EAP rate in the private sector (and almost at their EAP rate in the public service). The same pattern is reproduced at senior management level. As for the representation of the Coloured population group at top management level, it was far below their EAP rate in the private sector and slightly above their EAP rate in the public service. The Minister also noted with concern "the continued and flourishing slave conditions in the labour market, wherein the immigrants were being exploited".

In view of the above, the Committee asks the Government to continue to strengthen its efforts in promoting equality of treatment and opportunities in employment and occupation of all the designated groups and to provide information on: (i) the results achieved in the transformation of the labour market towards a more equitable representation of the designated groups (including statistical data as shown in the annual report of the Commission for Employment Equity); and (ii) the assessment of its affirmative action measures with a view to determining whether they remain effective and are in line with the principle of non-discrimination.

It also asks the Government to provide information on: (i) the actions taken within the framework of the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance, 2019–2024, the obstacles identified and the results achieved; and (ii) the implementation of section 53 of the Employment Equity Act as amended (measures put in place to evaluate the assessment criteria for the issuing of employment equity compliance certificates and number of certificates denied based on this assessment).

The Committee is raising other matters in a request addressed directly to the Government.

Suriname

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2017)

Previous comment

Article 1(1)(a) of the Convention. Discrimination based on sex. Sexual harassment. The Committee refers to its previous comment and notes the Government's confirmation that the draft Violence in the Workplace and Sexual Harassment Act has been amended to include the prohibition of sexual harassment in vocational training, access to employment and performing work in an occupation. The Government also confirms that the protection against sexual harassment includes harassment by co-workers and clients and other persons met in connection with the performance of work as well as employers and supervisors. However, the Committee notes with **regret** that the draft Bill has not been adopted yet. ***The Committee therefore asks the Government to: (i) ensure that the draft Violence in the Workplace and Sexual Harassment Act includes a prohibition of both quid pro quo and hostile work environment sexual harassment; (ii) take all the necessary measures to ensure its adoption in the nearest future; and (iii) provide information on any developments in this respect, as well as a copy of the Act once adopted.***

The Committee is raising other matters in a request addressed directly to the Government.

Syrian Arab Republic

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1957)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the complexity of the situation prevailing on the ground and the armed conflict in the country.

Articles 1 and 2 of the Convention. Legislative developments. Work of equal value. The Committee previously noted that section 75(a) of the Labour Code of 2010 provides for the principle of equal remuneration for work of equal value as enshrined in the Convention. It notes however that section 75(b) defines "work of equal value" as "work that requires equal scientific qualifications and professional skills, as attested by a work experience certificate". The Committee points out that such a definition restricts the full application of the principle as set out in the Convention. The Committee recalls that the concept of "work of equal value" lies at the heart of the fundamental right of equal remuneration for men and women for work of equal value, and the promotion of equality. This concept is fundamental to tackling occupational sex segregation in the labour market, which exists in almost every country, as it permits a broad scope of comparison, including, but going beyond equal remuneration for "equal", "the same" or "similar" work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value. Moreover, the Committee recalls that the principle has been applied to compare the remuneration received by men and women engaged in different occupations, such as wardens in sheltered accommodation for the elderly (predominantly women) and security guards in office premises (predominantly men); or school meal supervisors (predominantly women) and garden and park supervisors (predominantly men) (2012 General Survey on Fundamental Conventions, paragraphs 673 and 675). ***In light of the above, the Committee asks the Government to take the necessary measures to amend section 75(b) of the Labour Code in order to ensure equal remuneration for men and women not only in situations in which they perform the same work, but also in situations in which they carry out work which is different but nevertheless of equal value.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Tajikistan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes with **regret** that the Government's report once again contains no information in response to a number of its previous comments. The Committee wishes to reiterate that without the necessary information, it is not in a position to assess the effective implementation of the Convention, including any progress achieved since its ratification. **The Committee hopes that the next report will contain full information on the issues raised below.**

Articles 1 and 2 of the Convention. Gender wage gap. Private sector. In its previous comments, the Committee noted the persistence of both the gender wage gap and occupational gender segregation. It also noted that agricultural workers were still paid the lowest wage in the economy (367.59 Tajikistani Somoni (TJS) for men and TJS211.34 for women, approximately US\$39 and \$22 respectively) and that women were concentrated in the informal economy and in low-paid jobs. The Committee therefore requested that the Government step up its efforts to address the gender wage gap, particularly in the agricultural sector, and that it provide information on the measures taken in this regard. It also requested that the Government provide information on the measures taken to improve access of women to a wider range of job opportunities at all levels to address the occupational gender segregation. The Committee notes, from the Government's report, the adoption of a national strategy to enhance the role of women and girls 2011–20 and a state programme on the education, selection and appointment of managerial positions in the Republic of Tajikistan from among capable women and girls 2007–16. With regard to the fact that workers with the lowest paid jobs are found in the agricultural sector, the Government indicates that trade unions intend to make proposals to amend the General Agreement for the period 2018–20. The Government also indicates, in its report on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), that as a result of the state programme, in 2017, 1,002 women in need of special social protection were provided with employment and that 528 entrepreneurial initiatives from women received financial assistance. Further, the Committee notes, from the Government's sixth periodic report submitted under the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the establishment of presidential grants to support and develop women's entrepreneurial activities in 2016–20, the Plan of Action of the National Strategy on promoting the role of women 2015–20 and the National Development Strategy of the Republic of Tajikistan for the period up to 2030, which includes a special section addressing existing problems of inequality and discrimination, particularly for women in rural areas, and ways of resolving them (CEDAW/C/TJK/6, 2 November 2017, paragraph 136). **The Committee requests the Government to provide detailed information on the measures taken in the framework of the abovementioned policies to improve the access of women, especially women in rural areas, to job opportunities at all levels, including as managers of farms, and on the impact of such measures. The Committee further requests the Government to pursue its efforts to address the gender wage gap, particularly in the agricultural sector, and to provide information on the measures taken in this regard and the results obtained with regard to achieving pay equity. Finally, noting the absence of information provided in this regard, the Committee once again requests the Government to provide detailed and up-to-date statistics on wages of women and men, including sex disaggregated data by industry and occupational category.**

Civil service. **In the absence of any information provided in this regard, the Committee once again requests the Government to indicate how it ensures equal remuneration for men and women for work of equal value in the civil service in practice and to provide statistical information disaggregated by sex on the distribution of men and women in the various occupations and grades in the civil service, and their corresponding earnings.**

Article 2. Legislation. In its previous comments, the Committee asked the Government to clarify whether section 102 of the Labour Code and section 13 of the Framework Law on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of such Rights, No. 89 of 1 March 2005, both provided for equal pay for "work of equal value" or for "equal work". The Committee takes due note that the wording of section 140 of the new Labour Code 2017 and section 13 of the above-mentioned Framework

Law of 2005 both guarantee equal remuneration for work of equal value. Noting however that, once again, the report is silent on the application of these provisions in practice, the Committee stresses that the continued persistence of significant gender pay gaps requires that governments, along with employers' and workers' organizations take measures to raise awareness, make assessments, and promote and enforce the application of the principle of equal remuneration for men and women for work of equal value (see 2012 General Survey on the fundamental Conventions, paragraph 669). **Consequently, the Committee reiterates its request to the Government that it provide information on the practical application of section 140 of the Labour Code 2017 and section 13 of Framework Law No. 89 of 1 March 2005.**

Article 3. Wage determination. The Committee previously noted the adoption of Government Decree No. 98 of 5 March 2008, to approve the concept of wage reforms in the Republic of Tajikistan, which provides, among others, for mechanisms of state regulation of wage determination. In this context, it requested the Government to provide information on the measures taken to ensure that the principle of equal remuneration for men and women for work of equal value is being taken into account. The Committee notes that the Government has not provided any information in this regard. **The Committee therefore once again requests the Government to provide information on the measures taken to ensure that the principle of equal remuneration for men and women for work of equal value is being taken into account in the context of state regulation of wage determination.**

Article 4. Collective agreements. The Committee previously requested the Government to provide examples of collective agreements covering different sectors, to indicate how these agreements promote the principle of equal pay for work of equal value, and to indicate the percentage of the workforce covered by collective agreements. The Committee takes note of the Government's indication that there are 20 sectorial trade union committees covering all sectors of employment. The Government also indicates that trade union committees work with employers on basic wage agreements and collective agreements. While taking due note of the information provided, the Committee notes that the Government does not indicate how collective agreements promote the principle of the Convention. **The Committee therefore once again requests the Government to provide examples of collective agreements covering different sectors and to indicate how these agreements promote the principle of equal remuneration for men and women for work of equal value. It also requests the Government to indicate the percentage of the workforce covered by collective agreements, disaggregated by sex.**

Enforcement. The Committee previously noted that a Coordinating Council on Gender Issues has been established in the Ministry of Labour and Social Protection and the State Labour Inspectorate to monitor discrimination against women in the labour market and requested the Government to provide information on its activities regarding equal remuneration for men and women. The Committee also requested the Government to provide information on cases of violations of the principle of equal remuneration dealt by the labour inspectorate or the courts. The Committee notes the Government's indication that no complaints regarding remuneration have been recorded. **The Committee once again requests the Government to provide information on the activities of the Coordinating Council on Gender Issues to monitor sex-based discrimination regarding remuneration. With regard to the lack of complaints, the Committee refers the Government to its comments under Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and requests the Government to indicate the measures taken or envisaged to ensure that the principle of the Convention is enforced by the courts and the labour inspectorate. Once again, the Committee requests the Government to provide information on the number of violations of section 140 of the Labour Code dealt with by the Ministry of Labour and Social Protection and the State Labour Inspectorate, and indicate whether the courts have dealt with any cases concerning the principle of equal remuneration for men and women for work of equal value.**

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1993)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee takes note of the supplementary information provided by the Government in light of the decision adopted by the Governing Body at its 338th Session (June 2020). The Committee proceeded with the examination of the application of the Convention on the basis of the supplementary information received from the Government this year, as well as on the basis of the information at its disposal in 2019.

The Committee notes the observations of the International Trade Union Confederation (ITUC), which were received on 11 September 2019.

***Follow-up to the conclusions of the Committee on the Application of Standards
(International Labour Conference, 108th Session, June 2019)***

Article 2 of the Convention. Equality of opportunity and treatment between men and women. The Committee notes the discussion in the Committee on the Application of Standards (CAS) of the International Labour Conference, at its 108th Session (June 2019), on the application of the Convention, and the conclusions adopted. The conclusions of the CAS called upon the Government to: (1) report on the concrete measures taken to ensure that direct and indirect discrimination on all grounds is prohibited in law and in practice; and (2) provide without delay information on the implementation in practice of the Framework Law on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of such Rights, No. 89 of 1 March 2005 (Law on State Guarantees of 2005).

The Committee welcomes the detailed information provided by the Government in its report regarding the legislative framework and the policies and programmes developed and implemented with respect to equality of opportunity and treatment between men and women. The Committee notes, in particular, that the Government acknowledges that gender equality cannot be achieved if laws and policies are not implemented in practice and indirect discrimination persists. The Government adds that in order to detect indirect discrimination the country's legislation in this area needs to be improved and the first priority is to amend the national legislation. It also indicates that to improve policy to ensure de facto gender equality, the National Development Strategy for 2030 provides for the following measures: (1) improving legislation in order to realize the State guarantees of creating equal opportunities for women and men; (2) developing institutional mechanisms to introduce national and international obligations to ensure gender equality and expand women's opportunities in sectoral policies; (3) activating mechanisms for the literacy and social inclusion of women, including rural women; (4) boosting the gender capacity and gender sensitivity of staff members at agencies in all branches of government; and (5) introducing gender budgeting setting in the budget process. The Committee welcomes the Government's indication that, with a view to achieving de facto gender equality, a working group on the improvement of laws and regulations to eradicate gender stereotypes, protect women's rights and prevent domestic violence has made proposals on introducing the concepts of direct and indirect discrimination, temporary measures, and compulsory gender analysis of laws. As regards the Law on State Guarantees of 2005, the Committee notes that in 2018, the Committee for Women's and Family Affairs (CWFA) monitored its implementation, by collecting and analysing data from central ministries and agencies, and selected local executive authorities. The Government further states that a report, which includes an analysis of the implementation of the law's articles, and conclusions and recommendations to improve its monitoring and implementation, was prepared in this regard.

The Committee notes from ITUC's observations that it regrets the lack of concrete information provided by the Government to the supervisory bodies, which would enable a more comprehensive assessment of the situation in the country. It further notes that ITUC emphasizes the need not only to draft laws but also to implement specific policies to eliminate all forms of discrimination and take proactive measures to identify and address the underlying causes of discrimination and gender inequalities deeply entrenched in traditional and societal values. The Committee notes ITUC's statement that the very name of the body responsible for the implementation of the national policy to protect and ensure the rights and interests of women and their families, the "Committee for Women's and Family Affairs", raises an issue because it appears to enshrine the idea that women are the only ones who have to assume responsibilities in relation to their families. In this regard, the Committee notes the Government's indication that, with the aim of eradicating stereotypes about the roles and duties of women and men in the family and society, and to boost awareness of and ensure equal rights and opportunities for men and women, a range of measures were implemented for different sections of society and the possibilities of the mass media are widely used. More than 200 programmes on understanding the importance of ensuring equal rights and opportunities for men and women were prepared and broadcasted by the members of the CWFA. In its supplementary

information, the Government also indicates that it is taking every measure to root out gender discrimination against women based on stereotyped ideas of their capabilities and role in society, which contradict the Convention and hinder women's recruitment and employment.

The Committee notes the Government's statement that expanding economic opportunities for women and their competitiveness in the labour market, and the development of their entrepreneurial activities play a key role in ensuring gender equality. In this regard, it notes the detailed information regarding measures adopted to support the development of women entrepreneurship, through the allocation of grants, access to microcredit and an inter-agency working group to support women's entrepreneurship operating under the State Committee for State Property Investment and Management. The Government also indicates that further to the adoption of concluding observations in 2018 by the United Nations Committee on the Elimination of Discrimination against Women (CEDAW/C/TJK/CO/6, 14 November 2018, paragraph 37), it has formulated, through broad discussions with the civil society, and adopted in May 2019, a National Plan of Action to Implement the Recommendations of the CEDAW 2019–22. In this regard, the Committee notes that the CEDAW, while welcoming the measures taken to support women entrepreneurs and to regulate domestic work and work from home, expressed concern inter alia about the following: (1) the concentration of women in the informal sector and in low-paying jobs in the healthcare, education and agriculture sectors; (2) the low level of participation of women in the labour market (32.6 per cent) and the low employment rate among women (40.5 per cent), compared with men (59.5 per cent); (3) the absence of social security coverage, the shortage of preschool facilities and family responsibilities non compatible with paid work, which make women particularly prone to unemployment; (4) the adoption in 2017 of the list of occupations for which the employment of women is prohibited; and (5) the lack of access to employment for women with a reduced capacity for competitiveness, such as women with disabilities, mothers with several children, women heads of single-parent families, pregnant women and women who have been left behind by male migrants.

With respect to the employment of women in the civil service, the Committee welcomes the various steps taken by the Government. It notes the indication that, as at 1 July 2019, there were 18,835 active civil servants in total (19,119 as at 1 January 2019), including 4,432 women, which represented 23.5 per cent of civil servants (4,441 or 23.2 per cent as at 1 January 2019). In leadership positions, there were 5,676 persons representing 30.1 per cent of all civil servants and 1,044 of them were women (18.4 per cent in such positions). The Committee further notes, from the Government's additional information, that as at 1 April 2020, women represented 23.7 per cent of civil servants, and 19.1 per cent of leadership positions. With a view to promoting gender equality in the civil service, the Government adds that the Civil Service Agency (CSA) together with all State bodies is taking appropriate steps to recruit women to the civil service at all levels of public administration. The Committee notes the Government's indication that, in the first half of 2019, the CSA together with the Institute for State Administration held 24 professional training courses for civil servants, including four retraining and 20 professional development courses, which were attended by 977 persons – 236, or 24.1 per cent, of whom were women. In line with the requirements of State statistical report form No. 1-GS, "Report on the quantitative and qualitative composition of civil service", the CSA also conducts quarterly monitoring and draws up statistical reports on the number of civil servants, including women, the results of which are transmitted to the appropriate State bodies and discussed at board meetings for the necessary steps to be taken. The Government also mentions positive measures adopted to promote the employment of women in the civil service, through the implementation, since 2017, of the State Programme on the Development, Selection and Placement of Gifted Women and Girls as Leading Cadres of Tajikistan 2017–2022; the establishment of incentives and quotas for women; and, on first appointment to the civil service, the granting of three additional steps on the grading scale, pursuant to Presidential Decree No. 869 adopted in 2017. According to the Government, as a result of implementing those measures, 36 women were recruited to various civil service positions in the first half of 2019.

Welcoming the positive developments regarding the promotion of gender equality in employment and occupation both in the private and the public sectors, the Committee asks the Government to pursue its efforts to foster equality opportunity and treatment between men and women in employment and occupation and, in particular, to take appropriate steps, including through amending legislation, to address indirect discrimination and occupational gender segregation. The Committee asks the Government to provide information on the content, conclusions and recommendations of the report prepared to analyse

the implementation of the Law No. 89 on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of such Rights of 2005, as well as on any follow-up measures taken in this regard. The Committee also asks the Government to continue to provide detailed information on the situation of men and women in employment and occupation, both in the private and public sectors, as well as on the results of any positive measures taken to improve women's access to employment, and their results. Noting that the Government's report does not contain any information on any concrete measures taken, and their results, to address direct and indirect discrimination based on grounds other than sex, the Committee asks the Government to provide such information in its next report.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Türkiye

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1967)

Previous comment

The Committee notes that the observations of the Confederation of Turkish Trade Unions (TÜRK-İS) transmitted by the Government with its report are identical to those communicated with its previous report, which were addressed in the Committee's 2019 comments.

Articles 1–4 of the Convention. Assessing and addressing the gender pay gap. The Committee welcomes the detailed information provided by the Government in its report on the various programmes and projects being implemented, which aim to increase women's access to employment and addressing vertical and horizontal occupational gender segregation, including the Project of Supporting Employment Policies Sensitive to Gender Equality 2019–22, the Project of Supporting Decent Jobs of the Future Approach with a Gender Equality Focus 2020–23, the Mother at Work Project, and the Project to Support Women's Access to More and Better Job Opportunities – second phase 2019–22. In this context, the Committee refers to its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The Committee notes from the Structure of Earning Survey of 2018 transmitted by the Government that, taking into account the remuneration of women at all education levels, the overall gender pay gap stood at 7.7 per cent in 2018, with the widest gap (28.8 per cent) recorded at the vocational high school level in 2018. The Committee also refers to the report "Measuring the Gender Wage Gap" prepared jointly by the Turkish Statistical Institute (TURKSTAT) and the ILO Office for Türkiye, which shows how and why the gender pay gap varies when alternative sources of data are used. The report provides detailed data on the gender wage gap, including by occupation, sector of the economy, type of economy (private, public, formal, informal) as well as information on the motherhood wage gap. According to this report, the wage gap between women with children, and those without, is 11 per cent; moreover, when comparing the median wage level of mothers to that of fathers, the wage gap rises to 19 per cent. The Committee also notes the indication that the Strategy Document and Action Plan on Women's Empowerment 2018–23 establishes a number of actions aimed at reducing the existing gender pay gap. The Committee recalls that occupational gender segregation, in which women are typically concentrated in lower paying jobs or sectors remains one of the main underlying causes of gender wage gaps between men and women. ***Accordingly, the Committee asks the Government to intensify and expand its efforts to effectively address occupational segregation across the labour market, including through tackling gender stereotypes regarding women's professional aspirations, preferences and capabilities. The Committee asks the Government to provide detailed updated information on: (i) the nature and impact of specific measures taken or envisaged under the Strategy Document and Action Plan on Women's Empowerment 2018–23, as well***

as under any other frameworks, to reduce the gender pay gap; and (ii) statistical data on occupation by sector and level of occupation disaggregated by sex and on the gender pay gap, by sector if possible.

Article 1(a). Additional emoluments. Family allowances. Civil Service. The Committee recalls that section 203 of the Civil Servants Act, 1965, provides that family allowances are paid to the father if both parents are civil servants. It notes once again with **regret** the Government's indication in its report that no change was made in this regard. Once again, the Committee reiterates that the definition of remuneration in the Convention includes all elements that workers may receive in exchange for their work and arising from their employment, whether paid in cash or in kind, and directly or indirectly by the employer. **The Committee asks the Government once again to take the necessary measures so that section 203 of the Civil Servants Act, 1965, is amended to ensure that men and women civil servants are entitled to family allowances on an equal footing and to provide information on the progress made to this end. In this regard, the Committee asks the Government to consider the possibility of allowing both spouses to choose who would benefit from such allowances, rather than starting from the principle that they should systematically be paid to the father.**

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1967)

[Previous comment](#)

The Committee notes the observations from the Confederation of Public Employees Trade Unions (KESK), received on 1 September 2021 and the Government's reply thereto received on 19 November 2021. The Committee also notes the observations of the Turkish Confederation of Employer Associations (TİSK) received on 7 September 2021. Furthermore, The Committee notes that the observations of the Confederation of Turkish Trade Unions (TÜRK-İS) transmitted by the Government with its report are identical to those communicated with its previous report, which were addressed in the Committee's 2019 comments.

Articles 1 and 4 of the Convention. Discrimination based on political opinion. Activities prejudicial to the security of the State. The Committee notes that, in reply to its request regarding the practical application of the Anti-Terrorism Act and the Penal Code in cases involving journalists, writers and publishers, the Government merely refers to the existing legal provisions guaranteeing protection against anti-union discrimination in the Constitution, the Penal Code and the labour legislation. According to the Government, there is no restriction or prohibition on the use of trade union rights and the detention and conviction by a court of some unionists should not be associated with their trade union activities. The Government adds that judicial proceedings are carried out within the framework of human rights and that it continues to fight effectively and decisively against terrorist organizations threatening national security and public order, targeting the safety of life and property of its citizens. The Committee notes this information but also notes that the Government does not reply to its previous comment. While fully understanding the need for measures to protect the security of the State and recalling that they exist in almost all countries, the Committee is concerned that, depending on their application in practice, such measures could be used to limit the protection which the Convention seeks to guarantee against discrimination based on political opinion. **Therefore, the Committee firmly urges once again the Government to provide information on the cases brought before the courts against journalists, writers and publishers under the Anti-Terrorism Act and the Penal Code, indicating the number of cases and the charges brought as well as their outcome. The Committee asks the Government to indicate how it is ensured that the application in practice of the Anti-Terrorism Act and the Penal Code in cases involving such workers does not lead to discrimination based on political opinion.**

Article 1(1)(a). Discrimination based on political opinion. Public Sector. Recruitment procedure. Oral exams and security investigations. The Committee notes that the KESK, in its 2021 observations, reiterates the serious concerns about the discrimination based on political opinion raised in its previous observations and reaffirms that there is a broad and vague interpretation of the Turkish Penal Code and the Anti-Terror Law as regards the recruitment of new public officers and the working life of public officers. The KESK also: (1) reiterates concern regarding the impartiality, neutrality and independency of those who serve in committees in charge of making decisions about new public officers' suitability for employment into the public sector, since the introduction of an oral interview phase; (2) alleges that oral exams are used to select those who are loyal to the Government rather than eligible for public services, and security investigations and archive screening (that are extended to family members) are used to block those who are not deemed suitable for public services; (3) indicates that until 2016, there were only a few professions which fell into the category of sensitive and high-level positions that required extra measures namely security investigations and archive screening; and (4) underlines that following the State of Emergency, these extra security measures have been applied to all sectors and dozens of people were not recruited on the ground that there was a judicial investigation against them in the past, even if they were acquitted. The Committee **regrets** to note that the Government's report does not contain information on the adoption and entry into force of any new legislation, further to the annulment of the regulation on "security investigation" and "archive screening" by the Constitutional Court. **The Committee asks the Government to ensure that, during recruitment in the public sector, any new legislation providing for security investigation and oral exams does not lead to discrimination based on the grounds set out in the Convention, in particular discrimination based on political opinion. It also asks the Government to: (i) describe any new procedures of "security investigation" and "archive screening" put in place by law; and (ii) ensure that persons alleging discrimination in recruitment and selection in the public sector have effective access in practice to adequate and timely procedures for a review of their case and to appropriate remedies.**

Duties of loyalty, impartiality and neutrality. The Committee notes that, in its report, the Government emphasizes that, according to section 7 of the Civil Servants Law No. 657 on "Impartiality and Loyalty to the State", civil servants shall not become affiliated to political parties, or conduct themselves in any manner aimed at providing advantage or disadvantage for any political party, person or group, and they shall not under any circumstances make any declarations and pursue a course of action with political and ideological aims or participate in such actions. It adds that civil servants are, in all cases, obligated to protect the benefits of the State and shall not perform any activities which are contrary to the Constitution and the national laws, which prejudice the integrity and independence of the country, and which endanger the security of the Republic of Türkiye. The Committee recalls that, in accordance with *Article 1(1)(a)* of the Convention, discrimination based on political opinion is prohibited. The protection of political opinion applies to opinions which are either expressed or demonstrated but does not apply where violent methods are used. Furthermore, not all distinctions, exclusions and preferences are deemed to be discrimination within the meaning of the Convention, such as measures warranted by the security of the State under *Article 4* as mentioned above or inherent requirements of a particular job under *Article 1(2)*. The Committee recalls that it is essential that such restrictions are not carried beyond certain limits, evaluated on a case-by-case basis, and in this regard, it refers the Government to paragraphs 801, 805 and 831 of its [2012 General Survey on the fundamental Conventions](#). **In light of the above, the Committee asks the Government to consider: (i) defining further the duties of impartiality and loyalty of civil servants and limiting the restrictions regarding political activities to determined positions, thereby establishing clear rules of conduct, for instance through the adoption of a code of conduct in consultation with civil servants' organizations; and (ii) adopting a limited list of jobs in the civil service for which political opinion would be considered an inherent requirement.**

Massive dismissals: Civil servants, teachers and members of the judiciary. With regard to its previous comments, the Committee notes that the Government refers once again in detail to the legal framework applicable to the dismissals during the state of emergency and the appeal procedure against such decisions. With respect to the appeals lodged and examined by the Inquiry Commission on the State of Emergency Measures set up in 2017, the Committee notes the following information from its website to which the Government refers in its report: (1) by the decree-laws issued within the scope of the state of emergency, a total of 131,922 measures were taken, 125,678 of which were dismissal from public service; (2) the number of applications submitted to the Inquiry Commission was 126,783 as of 31 December 2021; (3) 120,703 decisions were delivered by the Commission and the number of pending applications was 6,080; (4) among the 120,703 decisions delivered between 22 December 2017 and 31 December 2021, 16,060 were accepted (61 of which were related to the opening of organizations that were shut down such as associations, foundations and television channels) and 104,643 were rejected; and (5) a total of 95 per cent of the applications have been decided. The Government further indicates that: (1) the applicants can acquire information on the stage of the applications filed with the Inquiry Commission and the outcome of the decision (“acceptance” or “rejection”) through a dedicated App; (2) the Inquiry Commission delivers individualized and reasoned decisions as a result of the speedy and extensive examination; and (3) out of the 33,956 staff members of the Ministry of National Education who were dismissed from public service pursuant to the emergency decree-laws, 4,360 persons were reinstated into the public service.

The Committee also notes the allegations made by the KESK according to which, although the state of emergency was lifted on 19 July 2018, there are still practices that amount to de facto state of emergency and even martial law in some provinces and in certain periods. The KESK also recalls that there were 4,267 KESK members among these dismissed public employees and although almost 5 years passed, there were still 2,630 pending cases concerning KESK members to be examined by the Inquiry Commission, as of 28 May 2021. The KESK therefore alleges that there is a deliberate delay in examining the applications of its members and reaffirms that the examination by the Commission is not based on clear criteria. The Committee notes the Government’s reply that KESK’s opinion about the Inquiry Commission (that it is not a competent legal body and not an effective remedy) is biased and unfounded and reiterates that the Commission conducts the examination in terms of membership, affiliation, connection or contact with terrorist organizations or structures/entities or groups established by the National Security Council as engaging in activities against the national security of the State. It also indicates that decisions taken by the judicial authorities are monitored through the UYAP (e-Justice) System.

The Committee asks the Government to ensure that the review mechanism (the Inquiry Commission) continues its work in a timely and effective manner on the basis of clear, fair and transparent criteria. The Committee asks the Government: (i) to continue to provide information on the total number of appeals reviewed by the Inquiry Commission or by the courts, and their outcome; (ii) to indicate whether during the proceedings, dismissed employees have the right to present their cases in person or through a representative; and (iii) to provide its comments regarding the KESK’s allegations on the length of the reviews concerning its members.

Articles 2 and 3. Non-discrimination and equality between men and women. Vocational education and training and employment. The Committee welcomes the detailed statistics provided by the Government regarding the representation of women in professions requiring expertise and the number of women who benefited from active labour force and training programmes from 2002 to the end of March 2021. The Committee notes the Government’s indication that significant increases were recorded in female labour force participation and female employment rates between 2002 and 2019 and that several schemes and programmes were put in place to encourage the participation of women in training and employment, such as the “Additional Employment Incentive”, the “Child Care Support”, the “Mother at Work Project”, the “Jobs Clubs” counselling programme, and the “Half Work Allowance” to reconcile work

and family responsibilities. The Government refers once again to the Strategy Document and Action Plan on Women's Empowerment (2018–2023) and its objectives, such as addressing gender occupational segregation. It also indicates that Phase II of the More and Better Jobs for Women Programme (2019–2022), funded by the Swedish International Development Cooperation Agency (SIDA) and implemented in collaboration with the ILO Office for Türkiye: (1) focuses on selected sectors including textiles, commerce and office, food, general services, domestic workers and home workers; and (2) addresses the prevention of violence and harassment in the world of work, the gender pay gap, work-life balance and women's leadership. Under the Program, it is envisaged to organize training, revise and implement the Women's Employment Action Plan, conduct an analysis to identify the obstacles to women's employment and provide business development training and support women entrepreneurs. The Committee notes that the KESK reiterates its observations regarding the decrease in women labour force participation and the "objective of the Government to keep women away from public, social, economic and professional life". The KESK also underlines that the withdrawal of Türkiye from the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention), on 1 July 2021, is an extremely serious issue for women employees. In its response to the KESK's observations, the Government reiterated the information provided on the various programmes aiming at increasing women's employment as well as provided new information on the "Operation for the Empowerment of Women through Cooperatives" that started in September 2021. Noting all this information, the Committee observes however that the participation of women to the labour force decreased from 34.4 per cent in 2019 to 30.8 per cent in 2020 (ILOSTAT) and remained significantly low in comparison to 68.2 per cent for men. ***The Committee asks the Government to continue taking specific proactive measures to: (i) promote the effective access of women to adequate education and vocational training and to formal and paid employment, including higher level positions; (ii) enable both men and women to reconcile work and family responsibilities, including through the development of childcare and family facilities and support; and (iii) ensure that the results of the various programmes and projects aimed at empowering women and increasing their participation in education, vocational training and formal employment are effectively monitored, assessed and adjusted, if necessary.***

The Committee reiterates its request to the Government to take and implement measures to combat persistent gender stereotypes, for example through awareness-raising and information campaigns, in cooperation with the social partners, and provide information in this regard. The Committee also asks the Government to provide information on: (i) the findings of any studies assessing the legislative framework and the practical obstacles concerning women's employment; (ii) the impact of the COVID-19 pandemic on women's participation to the labour force; and (iii) any corrective measures envisaged or adopted.

The Committee asks once again the Government to provide its comments regarding the alleged dismissal or threats of dismissal of pregnant women because of their pregnancy or enjoyment of full maternity leave, and any impact of the childcare leave on women's employment.

The Committee is raising other matters in a request addressed directly to the Government.

United Republic of Tanzania

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2002)

Previous comment

Articles 1–4 of the Convention. Assessing and addressing the gender wage gap. The Committee notes that, in its report, the Government merely recalls the national legal framework on equal remuneration for men and women. In this regard, the Committee wishes to point out that, while giving legislative effect to the principle of equal remuneration for men and women for work of equal value is important,

it is not sufficient to achieve the goal of the Convention. The issue of the gender wage gap also requires positive measures aimed at tackling its structural and underlying causes, such as horizontal and vertical occupational segregation of women into lower paying jobs or occupations and lower-level positions without promotion opportunities (see the [2012 General Survey on the fundamental Conventions](#), paragraphs 669, 710 and 712). The Committee notes that, according to the 2021 and 2022 Global Gender Gap Reports of the World Economic Forum, the labour force participation rate of women is 79.5 per cent (compared with 87.1 per cent for men), with women being almost entirely concentrated in the informal sector (93 per cent), characterized by low wages. It also notes that, according to the Integrated Labour Force Survey 2020/2021, conducted by the National Bureau of Statistics (NBS) and the Office of the Chief Government Statistician Zanzibar (OCGS), only 2.1 per cent of women were employed in the central and local government sector, while 60.3 per cent were employed in the agricultural (own or family farm) sector, also characterized by significantly lower wages. The same survey shows that the average direct wages and salaries of women are lower than those of men in all areas and industries. More generally, the Committee notes that, according to the 2022 Global Gender Gap Report of the World Economic Forum, the gender pay gap is 25.5 percentage points. ***The Committee therefore urges the Government to take proactive measures to address the existing gender wage gap, both in the public and private sectors, by: (i) identifying and addressing the underlying causes of pay differentials in the country, such as vertical and horizontal job segregation and gender stereotypes, covering both the formal and the informal economy; and (ii) promoting women's access to a wider range of jobs with career prospects and higher pay, including through the elaboration and implementation by employers of plans to promote gender equality in the workplace. It further asks the Government to communicate updated statistical data on the earnings of men and women in all economic sectors and occupations to monitor any progress achieved.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2002)

Previous comment

Article 1(1)(a) of the Convention. Discrimination based on sex. Job advertisements. The Committee observes that, in its report, the Government provides no information on the concrete measures taken to address the high prevalence of sex discriminatory hiring and advertising practices in the country previously noted, and merely refers to the general provisions of the Employment and Labour Relations Act (ELRA), Cap. 366 2019, and the Employment and Labour Relations (Code of Good Practice) Rules, 2007, on prohibition of discrimination in the workplace. ***The Committee again urges the Government to take without delay, in cooperation with the social partners, all the necessary measures to ensure that the principle of non-discrimination on the grounds of sex is effectively applied in hiring and advertising practices, including through awareness-raising activities aimed at eliminating stereotyped assumptions by employers of women's or men's suitability for certain jobs. It also again asks the Government to communicate updated statistical data on the percentage of job vacancies still containing a sex preference.***

Article 1(1)(b). Additional grounds of discrimination. HIV Status. The Committee notes the Government's indication that the implementing regulations of the HIV and AIDS Prevention and Control Act No. 28 of 2008 were adopted in 2010. It observes, however, that the regulations mentioned by the Government do not concern specifically section 52(m) of Act No. 28 of 2008, which provides that "the Minister may make regulations prescribing the circumstances under which a person may be regarded to stigmatise and discriminate a person living with HIV and AIDS", but sections 52(a) to 52(e) on counselling and testing, use of antiretroviral medicines (ARVs) and disclosure. In addition, although the

Government provides no information on the implementation of the third National Multisectoral Strategic Framework for HIV and AIDS for 2013/14 to 2017/18 with respect to employment and occupation discrimination based on HIV and AIDS status in the public and private sectors, the Committee observes that, in November 2018, the Prime Minister's Office published a new National Multisectoral Strategic Framework for HIV and AIDS for 2018/19 to 2022/23, aiming at zero stigma and discrimination against persons living with HIV and AIDS. The Committee further notes the Government's indication that no cases of discrimination on the basis of HIV and AIDS status in employment and occupation were submitted to the labour officers, the courts or any other authority. In that regard, it wishes to draw the Government's attention to the fact that, where no cases or complaints are being lodged, this may indicate a lack of an appropriate legal framework, lack of awareness of rights, lack of confidence in or absence of practical access to procedures, or fear of reprisals (see [2012 General Survey on fundamental Conventions](#), paragraph 870). **Recalling that the effective application of the Convention is an ongoing process requiring a continual cycle of assessment, action, monitoring, further assessment and adjustment, the Committee asks the Government to provide information on: (i) the impact of the measures and initiatives adopted to implement the National Multisectoral Strategic Framework for HIV and AIDS for 2018/19 to 2022/23 with respect to employment and occupation discrimination based on HIV and AIDS status, both in the public and private sectors; (ii) its efforts to ensure effective access to remedies for victims of such discrimination, as well as sufficient resources and adequate training for relevant institutions; and (iii) the number, nature and outcome of cases of employment and occupation discrimination based on HIV and AIDS status examined by the labour inspectorate, the courts or relevant equality bodies.**

Articles 2 and 3. Equality of opportunity and treatment for men and women. The Committee notes the general information provided by the Government regarding the provisions of the Employment and Labour Relations Act (ELRA), Cap. 366 2019, and the Public Service Regulations, 2003, on promotion of equality between men and women at the workplace. It observes, however, that the Government provides no information on the specific measures taken to promote women's economic empowerment and access to formal employment and address vertical and horizontal segregation between men and women in the labour market. In this regard, the Committee notes that, according to the Integrated Labour Force Survey 2020/21 conducted by the National Bureau of Statistics (NBS) and the Office of the Chief Government Statistician Zanzibar (OCGS), the unemployment rate is significantly higher for women (12.7 per cent) than men (5.8 per cent). Furthermore, the 2021 Global Gender Gap Report of the World Economic Forum shows that women remain disproportionately concentrated in informal employment, as 93 per cent of working women are employed in the informal sector. The Committee also notes, from the Integrated Labour Force Survey 2020/21, the persistent gender occupational segregation of the labour market, with women still being over-represented in sectors such as the household and domestic worker's sector. **In light of the persistent gender stereotypes and occupational gender segregation of the labour market and the absence of substantial progress made in the past years, the Committee urges the Government to strengthen its efforts to promote effective equality of treatment and opportunity for men and women in employment and occupation, in both law and practice. It asks the Government to provide information on the concrete measures implemented, including in collaboration with the social partners, in order to address both vertical and horizontal occupational gender segregation, for example: (i) by promoting women's economic empowerment, access to formal employment as well as to decision-making positions; and (ii) by raising public awareness, with a view to combating stereotypes regarding women's professional aspirations, preferences and capabilities and their role and responsibilities in the family and society. The Committee further asks the Government to provide updated statistical information on the participation of men and women in employment and occupation, disaggregated by occupational categories and positions, both in the public and private sectors, as well as in the informal economy.**

Access of women to education and vocational training. The Committee notes the various initiatives taken by the Government to increase the enrolment rate of children and adolescents in education, mainly through the National Strategy on Inclusive Education (2018–2021) and the Secondary Education Improvement Programme (2020–2025). It also notes that, according to 2021 statistics of the United Nations Educational, Scientific and Cultural Organization (UNESCO), the gross enrolment ratio in primary and secondary education was higher for girls (98.99 per cent for primary and 29.81 per cent for secondary education) than boys (95.37 per cent for primary and 27.54 per cent for secondary education). UNESCO data shows, however, that the enrolment in technical and vocational education and training programmes remains lower for women (0.6 per cent) than men (3.1 per cent), and that the gross enrolment ratio in tertiary education is 7.1 per cent for women, compared to an enrolment ratio of 8.5 per cent for men. The Committee further notes the Government's indication that it instructed all education administrators to stop the practice of mandatory pregnancy testing of girls as a precondition for admission to lower and upper secondary education. The Government adds that pregnant girls can be readmitted to informal school centres, commonly known as "Open Schools". The Committee observes, however, that in its Decision No. 002/2022 of 15 September 2022, the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) found the United Republic of Tanzania in violation of the African Charter on the Rights and Welfare of the Child, and recommended the Government to immediately prohibit mandatory pregnancy testing in schools, review the Education Regulations by indicating that the moral ground of expulsion should not apply in cases of pregnancy, and immediately readmit schoolgirls who have been expelled due to pregnancy. In this regard, the Committee recalls that mandatory pregnancy testing and discrimination on the basis of pregnancy constitutes a serious form of sex discrimination. ***The Committee therefore urges the Government to explicitly prohibit pregnancy testing as a precondition for admission to all levels of education and provide information on measures taken (including any sanctions imposed), to ensure that this prohibition is effectively applied in practice, meaning that all students expelled due to pregnancy are effectively readmitted to school. The Committee further reiterates its request to the Government to provide information on the measures taken to enhance access of girls and women to vocational training and higher education, in particular to professions where women are under-represented. Please also provide up-to-date information on the number of men and women enrolled in vocational training and education, including information on the share of men and women in the different areas of specialization.***

The Committee is raising other matters in a request addressed directly to the Government.

Uzbekistan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1992)

Previous comment

The Committee notes the observations from the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), received on 30 August 2021.

Articles 1–4 of the Convention. Assessing and addressing the gender pay gap and its underlying causes. The Committee notes that, according to the observations of the IUF, the issue of unequal remuneration of men and women for work of equal value is one of the components of discrimination and there are a number of manifestations of unequal payments between men and women in the country. According to the IUF, it is difficult to determine the gender pay gap accurately, because State bodies do not publish statistics that allow such an analysis, nor do they publish information about instances of discrimination against workers. The IUF adds that as women fulfil the role of mother and parent and bear primary responsibility for supervising and caring for children, employers perceive them as less attractive employees. It also emphasizes that women's participation in the labour market is limited by widespread

adherence to patriarchal stereotypes, in particular with regard to childcare responsibilities, and the manner in which parental leave is used – exclusively by women – increases the income gap between women and men. After their parental leave comes to an end, women continue to shoulder all child and family care duties, which impacts their involvement in paid work, their career growth and, undoubtedly, their wages. The organization adds that adherence to patriarchal stereotypes is manifested, inter alia, in the active promotion of “working from home” which is low-paid and serves to reinforce the perception that women’s work needs to be adapted to their family responsibilities rather than encouraging equal distribution of such responsibilities. In addition, according to the IUF, horizontal segregation in the labour market reflects a clear division between “female” and “male” specialties and occupations, the latter being as a rule more highly paid, while women find themselves predominating in occupations with low wages. Horizontal gender segregation which hinders women’s development and limits their future economic opportunities can also be explained by women’s choice of field of studies and inadequate levels of education. The Committee also notes the IUF’s indication that there is vertical gender occupational segregation in industries employing large numbers of women, with women being under-represented in leadership or senior positions even though they constitute the majority of the workforce. Finally, the IUF stresses that it is necessary to create a robust mechanism to collect data on a regular basis that can be disaggregated by gender, thereby providing useful statistics for monitoring and analysis and to inform policymakers.

The Committee welcomes the statistics disaggregated by sex provided by the Government and those available on the website of the State Committee on Statistics regarding the share of women in employment, by type of economic activity. These data show that the participation of women in employment has decreased from 45.7 per cent in 2016 to 41.4 per cent in 2020 (with more significant decreases in some regions) but the number of women individual entrepreneurs has increased from 69,756 in 2018 to 81,703 in 2020. The Committee also notes the Government’s indication that it is clear that there is a significant gender gap in employment numbers in sectors such as construction (6.2 per cent women and 93.8 per cent men), shipping and storage (7.2 per cent women and 92.8 per cent men), education (75.7 per cent women and 24.3 per cent men), and healthcare and social services (76.8 per cent women and 23.2 per cent men). It also welcomes the establishment, in accordance with Presidential Decision No. 4235 of 7 March 2019, of a list of minimum gender indicators and the adoption on 8 August 2020 of the Presidential Decision No. 4796 on Measures to Further Improve and Develop the National Statistical System of the Republic of Uzbekistan, which covers the improvement of gender statistics. It further notes that a national census is planned for 2022 and the establishment of the Unified National Labour System (UNLS) in accordance with Presidential Decision of 31 October 2019. Furthermore, the Committee notes with **interest** the Government’s indication that: (1) an analysis of men’s and women’s salaries disaggregated by the most common jobs and professions, in both the public and private sectors, was conducted using data from the UNLS, which showed that the percentage difference between the average monthly salary of men and women in equivalent jobs and professions was less than 10 per cent (for the first quarter of 2021); and (2) the State Committee on Statistics has determined, in line with ILO methodology, that the percentage difference between the average monthly salary of men and women was 34.5 per cent in 2016, 34.6 per cent in 2017, 38.6 per cent in 2018 and 36.2 per cent in 2019.

In light of the above, the Committee asks the Government to take steps to address: (i) pay differentials between men and women, including measures to remove the practical barriers regarding women’s access to jobs with higher pay; (ii) horizontal and vertical occupational gender segregation, with a view to increasing the number of women in male-dominated sectors, including measures to combat gender stereotypes and promote the sharing of family responsibilities; and (iii) the undervaluation of female-dominated occupations resulting in lower remuneration.

In addition, welcoming the significant progress made in the collection and compilation of data disaggregated by sex, the Committee asks the Government to continue to collect, compile and analyse

such data, in particular with respect to men's and women's remuneration, if possible by economic sector, and to communicate them as well as any available statistics on the gender pay gap.

Articles 1(b) and 2(2)(a). Equal remuneration for men and women for work of equal value. Legislative developments. The Committee recalls that for a number of years it has been referring to the need to amend the Labour Code of 21 December 1995, which prohibits discrimination on the basis of sex with regard to remuneration, but which does not fully reflect the principle of equal remuneration for men and women for work of equal *value* as set out in the Convention. The Committee notes with **satisfaction** that section 244 of the new Labour Code, which was adopted in March 2022 and will enter into force on 30 April 2023, explicitly refers to “ensuring equal pay for men and women for work of equal value”. The Committee also notes the adoption on 2 September 2019 of Law No. LRU-562 on guarantees with respect to equal rights and opportunities for women and men. It notes, however, that section 21 provides that the employer shall ensure “equal wages (remuneration) for women and men for equal labour, and an equal approach to assessment of the quality of work of women and men”. The Committee observes that the law refers to “equal labour” (equal work) which is narrower than “work of equal *value*”. It recalls that, in a context where there is a significant gender occupational segregation, the concept of “work of equal *value*” is fundamental to the promotion of genuine gender equality in remuneration as men and women do not perform the same or equal work. Therefore, the concept of “work of equal *value*” permits a broader scope of comparison between work typically (or mainly) performed by women and work typically (or mainly) performed by men. It includes “equal work” or work performed under “equal conditions”, but also encompasses work that is of an entirely different nature, but which is nevertheless of equal value overall (for more detailed information on the concept of “work of equal value” (see the [2012 General Survey on the fundamental Conventions](#), paragraphs 673–681). **The Committee asks the Government to take steps to amend Law No. LRU-562 of 2019 on guarantees with respect to equal rights and opportunities for women and men accordingly so as to give full legislative expression to the principle of equal remuneration for men and women for work of equal “value” and align the provisions of the Law with those of the new Labour Code. The Committee asks the Government to provide information on any legislative developments in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

Zimbabwe

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1989)

Previous comment

The Committee notes the observations of the Zimbabwe Congress of Trade Unions (ZCTU) received on 31 August 2019.

Articles 1(b) and 2(2)(a) of the Convention. Work of equal value. Legislation. With reference to its previous comments, the Committee notes the ZCTU's statement that it received the draft Labour Bill but that, at the time of its observations, no formal tripartite meeting had taken place to discuss whether the Bill gives effect to the principle of the Convention. The Committee notes the Government's indication, in its report, that the concept of equal remuneration for work of equal value is now fully reflected in the draft Labour Bill. It adds that the ZCTU was given the opportunity to present its proposals on the draft Labour Bill and that its views were taken into account for the final draft. The Government indicates that the Bill is currently being considered by Cabinet. **The Committee requests the Government to ensure that the principle of equal remuneration for men and women for work of equal value is fully reflected in the draft Labour Bill to allow for the comparison not only of work that involves similar qualifications and skills, effort, responsibilities and conditions of work, but also of work of an entirely different nature which is nevertheless of equal value. Recalling that the draft Labour Bill has been pending for**

a number of years, the Committee trusts that the Government will endeavour to enact it in the near future and provide a copy of the legislation once adopted.

Article 2. Measures to address the gender pay gap. With reference to its previous comment, the Committee notes the adoption of the Revised National Gender Policy (2017), supported by the National Gender Policy Implementation Strategy Plan (2019). It notes, however, that the Government does not provide more in-depth information on any measures taken, under the National Gender Policies or otherwise, to effectively address the gender pay gap. The Committee notes the ZCTU's indication that the Government has not taken any action to address the gender pay gap and the situation of women in low-paying jobs. The ZCTU alleges that, in the agricultural sector, women receive lower wages than their male counterparts for the same jobs. The Committee also notes the ZCTU's statement that the situation for women working in the informal economy has worsened due to austerity measures, and that payments that were previously made in United States dollars are now made in local currency, the result being that women who before already earned as little as US\$100 per month, now earn US\$30. The ZCTU adds that no efforts have been made by the Government to implement the National Gender Policy (2013–17), and that there has not been any consultation with the social partners on the subject. The Committee also notes, from the concluding observations of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), the continuing horizontal and vertical occupational segregation, as well as the persistent gender pay gap and women's concentration in low-paying jobs, primarily in agriculture and domestic work (CEDAW/C/ZWE/CO/6, 10 March 2020, paragraph 37). ***The Committee requests the Government: (i) to take concrete measures, including under the Revised National Gender Policy (2017), to address the structural causes of the gender pay gap, including occupational gender segregation of the labour market and the very low rates of remuneration for jobs predominantly occupied by women; and (ii) to provide information on the progress achieved. Recalling that the National Gender Policy 2013–17 provided for a monitoring and evaluation framework, the Committee once again requests the Government to forward a copy of any report assessing the impact of the policy as well as to provide information on any follow-up measures envisaged.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1999)

[Previous comment](#)

The Committee notes the observations of the Zimbabwe Congress of Trade Unions (ZCTU) received on 31 August 2019 and 20 January 2020.

Article 1(1)(a) and (b) of the Convention. Grounds of discrimination. Legislation. Referring to its previous comment, in which it noted the Government's indication that section 5(1) of the Labour Act would be amended to incorporate all of the grounds enumerated in the Constitution, including the grounds of "place of birth" and "ethnic origin" which cover "national extraction", the Committee notes with **regret** the Government's indication, in its report, that the bill amending the Labour Act is still pending. In this regard, it notes the ZCTU's indication that the bill has been on the Parliament's agenda for the last three sessions. It further notes the Government's reply that the labour inspectorate gives the following interpretation to the expressions contained in the Constitution: "nationality: the country of origin of the person/citizenship"; "ethnic origin: the ethnic/tribe group one belongs to"; and "place of birth: area/region in which a person was born". ***The Committee urges the Government to take all the necessary steps with a view to: (i) enacting the draft Labour Bill in the near future; while (ii) ensuring that the Labour Act prohibits direct and indirect discrimination on at least all of the grounds enumerated in Article 1(1)(a) of the Convention, including national extraction and social origin, for all***

workers and with respect to all aspects of employment. It requests the Government to provide information on any progress made in this regard and to provide a copy of the Labour Act once adopted. Recalling that the concept of “national extraction” does not only cover distinctions made on the basis of a person’s place of birth, ancestry or foreign origin, but also discrimination directed against persons who are nationals of the country in question, but who have acquired their citizenship by naturalization or who are descendants of foreign immigrants, the Committee requests the Government to provide information on the application in practice given to the expressions “nationality”, “ethnic origin” and “place of birth” listed in article 56 of the Constitution, such as extracts of relevant court decisions.

Articles 2 and 3. National policy to promote equality of opportunity and treatment for men and women. The Committee notes the ZCTU’s allegations that the National Gender Policy for 2013–17 has not been allocated a budget nor been implemented. The Committee also notes that the Government does not provide any information on the implementation of the National Gender Policy but states that the issue of gender has been mainstreamed as a cross-cutting issue in the National Development Strategy 1 (NDS1, 2021–2025). The Government indicates that, in order to enhance women’s participation in decision-making positions, 60 seats (out of the 270 seats) of the National Assembly are reserved for women, and that, following the elections in 2018, 86 seats were held by women. The Committee notes, from the Government’s report under the Equal Remuneration Convention, 1951 (No. 100), that it established the Zimbabwe Women Micro Finance Bank (ZWMB) in January 2017 to facilitate financial inclusion of women, and the Women Development Fund and Community Development Fund, a platform that provides loans to women’s community projects at concessionary rates. The Committee further notes, from the Government’s report under the United Nations Universal Periodic Review, that the 2019 Labour Force and Child Labour Survey estimated that there were overall employment and unemployment rates of 84 per cent and 16 per cent respectively. Among those who were employed, 57 per cent were male and 43 per cent were female. The unemployment rate for females (17.2 per cent) was slightly higher than for males (15.7 per cent). There was also a wide disparity on the Employment to Population Ratio, being at 44.4 per cent for males and 28.5 per cent for females. Among people who were employed at management level in the country, the proportion of women had increased to 33.7 per cent (from 27.9 per cent in the 2014 Labour Survey) (A/HRC/WG.6/40/ZWE/1, 9 November 2021, paragraph 108). The Committee also notes, from the concluding observations of the United Nations Committee on the Elimination of Discrimination against Women, the insufficient level of human, technical and financial resources allocated to the implementation of gender equality policies and plans, the absence of sectoral targets, benchmarks and effective coordination arrangements to guide implementation as well as the lack of information on the results and impact of the national gender policy (CEDAW/C/ZWE/CO/6, 10 March 2020, paragraph 19). **While taking due note of the information provided by the Government, the Committee requests it to: (i) intensify its efforts to fully implement the National Gender Policy, by allocating it the necessary budget and taking effective measures to address past gender discrimination and enhance women’s economic empowerment and access to decision-making positions; and (ii) provide information on the measures taken and their impact in terms of equality of opportunity and equal treatment for men and women in employment and occupation. The Committee also asks the Government to provide: (i) detailed information on how equality of opportunity and treatment for men and women has been incorporated in the National Development Strategy 1, including on any relevant measures taken in its framework; (ii) information on the number of women who benefited from the Zimbabwe Women Micro Finance Bank or the Women Development Fund and Community Development Fund; and (iii) updated statistical information on the participation of men and women in education, training, employment and occupation, disaggregated by occupational categories and positions.**

The Committee is raising other matters in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 100** (*Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Bangladesh, Barbados, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Cameroon, Chad, Colombia, Comoros, Congo, Côte d'Ivoire, Croatia, Democratic Republic of the Congo, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Equatorial Guinea, Finland, Grenada, Lebanon, Madagascar, Pakistan, Panama, Paraguay, Philippines, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, San Marino, Sao Tome and Principe, Serbia, Singapore, Slovakia, Slovenia, South Africa, South Sudan, Suriname, Syrian Arab Republic, Timor-Leste, Türkiye, Uganda, United Republic of Tanzania, Uzbekistan, Yemen, Zimbabwe*); **Convention No. 111** (*Albania, Algeria, Antigua and Barbuda, Argentina, Bahrain, Bangladesh, Barbados, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Cameroon, Chad, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Democratic Republic of the Congo, Denmark, Denmark: Greenland, Djibouti, Ecuador, Egypt, El Salvador, Fiji, Finland, Grenada, Lebanon, Madagascar, Malawi, Pakistan, Paraguay, Philippines, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, South Africa, South Sudan, Suriname, Syrian Arab Republic, Tajikistan, Timor-Leste, Türkiye, Uganda, United Republic of Tanzania, Yemen, Zimbabwe*); **Convention No. 156** (*Albania, Argentina, Belgium, Bosnia and Herzegovina, Bulgaria, Costa Rica, Paraguay, Russian Federation, San Marino, Serbia, Slovakia, Slovenia*); **Convention No. 190** (*Uruguay*).

Tripartite consultation

Antigua and Barbuda

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2002)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 5(1) of the Convention. Effective tripartite consultations. The Government indicates in its report that the National Labour Board is currently engaged in the revision of the Labour Code. The Committee notes that the Government envisages establishing a subcommittee composed of members of the National Labour Board, along with representatives of workers and employers, to review international labour standards, engage the public in consultations when necessary and to make recommendations to the Minister on actions to be taken. The Committee notes, however, that once again the Government's report does not contain information with regard to tripartite consultations on the matters related to international labour standards covered by *Article 5(1) of the Convention*. **Recalling its comments since 2008 concerning the activities of the National Labour Board, and noting that section B7 of the Labour Code, which establishes the Board's procedures, does not include the matters set out in Article 5(1) of the Convention, the Committee once again requests the Government to provide detailed information on the activities of the National Labour Board on matters related to international labour standards covered by the Convention. It further requests the Government to identify the body or bodies mandated to carry out the tripartite consultations required to give effect to the Convention. The Committee reiterates its request that the Government provide precise and detailed information on the content and outcome of the tripartite consultations held on all matters concerning international labour standards covered by Article 5(1)(a)–(e) of the Convention, especially those relating to the questionnaires on Conference agenda items (Article 5(1)(a)); reports to be presented on the application of ratified Conventions (Article 5(1)(d)); and proposals for the denunciation of ratified Conventions (Article 5(1)(e)).**

Article 5(1)(b). Submission to Parliament. The Government reiterates information provided in April 2014, indicating that the 20 instruments adopted by the Conference from its 83rd to its 101st Sessions (1996–2012) were resubmitted to Parliament on 11 March 2014. It adds that a request would be made to the Minister by 15 November 2017 via the Labour Commissioner and Permanent Secretary concerning submission of the instruments to Parliament. **The Committee refers to its longstanding observations on the obligation to submit and once again requests the Government to indicate whether effective consultations leading to conclusions or modifications were held with respect to the proposals made to the Parliament of Antigua and Barbuda in connection with the submission of the above-mentioned instruments, including information regarding the date(s) on which the instruments were submitted to Parliament. In addition, the Committee requests the Government to provide information on the content, agenda, discussions and resolutions and on the outcome of the tripartite consultations held in relation to the submission of instruments adopted by the Conference as of 2014: the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, as well as the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session.**

Article 5(1)(c). Examination of unratified Conventions and Recommendations. The Government reports that the unratified conventions noted in its report were submitted to the National Labour Board on 11 November 2017 for re-examination with the social partners. **The Committee requests the Government to provide updated information on the outcome of the re-examination of unratified Conventions, in particular: (i) the Labour Inspection (Agriculture) Convention, 1969 (No. 129), which is deemed a governance Convention; (ii) the Holidays with Pay Convention (Revised), 1970 (No. 132), (which revises the Weekly Rest (Industry) Convention, 1921 (No. 14); the Holidays with Pay (Agriculture) Convention, 1952 (No. 101), to**

which Antigua and Barbuda is a State party); and (iii) the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), (which revises the Seafarers' Identity Documents Convention, 1958 (No. 108), that has also been ratified by Antigua and Barbuda).

The Committee expects that the Government will make every effort to take the necessary action in the near future.

El Salvador

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1995)

Previous comment

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2021. The Committee also notes the observations of the International Organisation of Employers (IOE), received on 10 November 2022, which contain allegations of serious and repeated violations by the Government of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), as well as of the present Convention. Both observations provide information on matters dealt with in this comment, which is examined below. **The Government is requested to provide its comments in this respect.**

Follow up to the conclusions of the Committee on the Application of Standards (110th Session of the International Labour Conference, May–June 2022)

The Committee notes the discussion on the application of the Convention held in the Conference Committee on the Application of Standards in June 2022. In its conclusions, the Conference Committee took note of the high-level tripartite mission, accepted by the Government, that took place in May 2022. However, the Committee regretted that five ILO Conventions were ratified without consulting the most representative employers' organizations. The Committee also noted with deep concern the multiple allegations of interference by the authorities in the appointment of employers' and workers' representatives in public tripartite and joint bodies.

Taking into account the discussion of the case, the Committee urged the Government to: (i) refrain from any aggression and from interfering in the establishment and the activities of employers' and workers' organizations, in particular the National Business Association (ANEP); (ii) ensure the effective operation of the Higher Labour Council (CST) and other tripartite entities, respecting the full autonomy of the most representative employers' and workers' organizations and through social dialogue, in order to guarantee their full functioning without any interference; (iii) refrain from unilaterally appointing workers' and employers' representatives for tripartite consultations and institutions, and to develop, in full consultation with the social partners, the appointment procedures of those representatives; (iv) repeal the legal obligation on trade unions to request renewal of their legal status every 12 months and the 23 decrees adopted on 3 June 2021; and (v) develop a time-bound road map to implement without delay all the recommendations made by the ILO high-level tripartite mission.

The Conference Committee requested the Government to present a detailed report on the application of the Convention in law and practice to the Committee of Experts before 1 September 2022, in consultation with the social partners. The Committee also encouraged the Government to continue to avail itself of technical assistance from the Office to ensure full compliance with its obligations under the Convention.

Articles 2 and 3(1) of the Convention. Adequate procedures. Reactivation of the Higher Labour Council. In its previous comments, the Committee requested the Government to continue to provide detailed and updated information on measures adopted to ensure the effective operation of the Higher Labour

Council (CST), as well as on the content and outcome of the tripartite consultations held within this tripartite body.

Reactivation and operation of the CST. The Committee notes that the Government reports that the CST is operating effectively. In this regard, the Government reiterates that the CST 2021-2023 was set up in December 2021, and that the workers' and employers' representatives were freely and independently elected, in conformity with section 4 of the CST Statute. The Government states that Mr José Agustín Martínez, Vice-President of the ANEP, was elected as CST Vice-President for the employers' sector, after being elected by the employer organizations; and Mr Jaime Ernesto Ávalos was elected as CST Vice-President for the workers' sector; while the Minister of Labour and Social Welfare, Mr Oscar Rolando Castro, was elected President of the CST. The Government adds that since its instauration, the CST has held five plenary meetings, and ten meetings of its board of officers, in accordance with section 11 of its Statute, which provides that the CST shall meet at least twice yearly. The Government indicates that one of the CST objectives was the tripartite construction of a strategy to generate decent work, for which the CST requested ILO technical assistance. In this connection, the Government indicates that it has held several meetings with representatives of the ILO Regional Office with a view to agreeing on a road map for the elaboration of such a strategy. The Government also reports that, on the basis of its Statute, the CST agreed to establish a Tripartite Technical Commission, the mandate of which would include following up and ensuring the functioning of the CST agenda. The Government indicates that the three groups have formed their delegations on the Tripartite Technical Commission, which is functioning regularly, and has followed up on the above-mentioned strategy, with the assistance of the employment specialist of the ILO Regional Office and has also carried out a review of the Act for the protection of children and adolescents.

The Committee takes note, however, of the ITUC's observations relating to the ILO tripartite mission which took place in the first week of May 2022. The ITUC indicates that the tripartite mission observed that the CST was back in operation, and that several meetings had been held, at which the ratification of several ILO Conventions was discussed. Nevertheless, the ITUC highlights the following persistent problems regarding the application of the Convention: (i) steps must be taken, by filling the empty seats on the body as soon as possible, to ensure representation of employers and workers on an equal footing within the CST; (ii) the administrative process for the designation of workers' representatives continues to be complex, and hampers the operation of the CST; and (iii) trade unions are obliged to renew the composition of their boards each year, making a legal obstacle and complicating the process of appointing workers still further.

The Committee also notes the IOE's observations to the effect that the CST has only been active for ten and a half months since 1 June 2019, that is, for only 25 per cent of the current presidential term, and only during brief periods of time: from September 2019 to March 2020, for a duration of 5.6 months, and between December 2021 and May 2022, for a period of 4.9 months. Moreover, at the end of the High-Level Tripartite Mission on 5 May 2022, the CST became inactive again. According to the IOE's observations, neither the officers, the plenary, nor the different CST commissions have met. On 5 September 2022, the Government convened a meeting of the officers of the CST, at which the Employer Vice-President and his alternate were present, but neither the President nor his alternate attended the meeting. Consequently, the meeting could not be held, for lack of a quorum. The IOE also indicates that although a plenary session had been agreed with Ministry of Labour officials for 4 October 2022, it was never convened. In this way, the IOE stresses, CST inactivity is disrupting the process of reforming the labour legislation. In this connection, the IOE refers to the approval process of the Act for the Overall Protection of Early Childhood, Childhood and Adolescence, and the adoption by the Legislative Assembly of various reforms to the Labour Code on 4 October 2022, where neither the CST nor the social partners were consulted.

The IOE indicates that the Government has, to date, submitted no document or correspondence to the ANEP on the reports it was due to send before 1 September 2022. The IOE claims that the

presentation of the five ILO Conventions before the National Assembly on 1 May 2022, and their adoption two weeks afterwards, without conducting prior consultations with the ANEP as the most representative employers' organization in the country, showed clear disregard for social dialogue and tripartite consultation, and thus constituted a violation of the Convention by the Government. The IOE adds that, six months after ratification of the five Conventions, neither the ANEP, nor its constituent organizations, have received information on how they are to be implemented. At the request of the ANEP, in July 2022, the ILO Regional Office gave a tripartite course on the content of the five ratified Conventions. The IOE highlights that although government representatives were present, the higher government authorities were not, and neither was it possible to conduct social dialogue regarding the proper implementation of the Conventions.

With regard to the road map requested by the Committee on the Application of Standards in June 2022, the IOE indicates that the CST has neither sat, nor been consulted in respect of elaborating, in a tripartite manner, a road map to implement, without delay, the recommendations formulated by the ILO High-level tripartite mission. In this regard, the IOE stresses that the free and independent Salvadoran employers grouped within the ANEP, the most representative employers' organization, were still fully disposed and willing to strengthen social dialogue and tripartite consultation.

The Committee observes that the Government does not indicate whether the CST sat during the months after the June International Labour Conference, nor whether it has adopted measures to resolve the difficulties in issuing credentials. The Committee also notes that the Government provides no information on the 23 decrees in question, or the road map requested by the Conference Committee.

Allegations of government interference. The Committee notes that, in response to the allegations of Government interference in the elections of the representatives for tripartite consultation, the Government reiterates that it recognizes the ANEP as one of the most representative employers' organizations in the country and points to the nomination of the President of the ANEP as Vice-President for the employer sector of the CST. The Government states that it has committed no acts of harassment and interference against the ANEP and adds that, within the framework of the CST, it has been working with the employers and workers in a harmonious, professional and technical manner. The Government also refers to the ANEP's participation in the five spaces for social dialogue in the country: the CST; the Social Housing Fund (FSV); the Salvadoran Vocational Training Institute (INFASORP); the Salvadoran Social Security Institute (ISSS) and the National Minimum Wage Board (CNSM). It indicates that the process to appoint the employer representatives on the Board of the ISSS is underway. The Government also refers to 20 autonomous, tripartite and joint bodies, in which the Government, trade unions and other actors participate. It also points to 23 autonomous, tripartite and joint institutions (including the CST and the CNSM) in which the ANEP is represented, with the exception of the ISSS.

The Committee notes however, that the IOE, in its observations, maintains that Government interference is ongoing, and highlights the following examples: in May 2022, the Government convened the election of the employer representatives of the INFASORP, which was suspended on 3 June, without a reason being given, during the discussion of the case of El Salvador at the International Labour Conference. On 23 June 2022, the Government reconvened the election, but altered the rules in a discretionary manner, to include individual enterprises among the electors, a move intended to distort the role of employers' organizations, and to disrupt their unity. The IOE maintains that the Government also contacted various enterprises with a view to coercing them into presenting a series of Government-preferred candidates. At the same time, the Government warned that any candidate put forward by professional associations belonging to the ANEP would be rejected. The IOE states that the INFASORP case provides a clear indication of Government interference in the election process for employer representatives, which undermines social dialogue and tripartite consultation by marginalizing the representatives, and because of the potential lack of legitimacy of the supposed representatives. The IOE indicates that: (i) Despite several employer's organizations belonging to the ANEP registering as electors and putting forward candidates, to date the final ballot has not been counted and there has

been no election; (ii) for a number of tripartite and bipartite bodies, the Government has not conducted elections for persons to replace directors appointed by the employers' organizations whose mandate has expired. The IOE indicates that this is the case with the employer directors in the ISSS, whose mandates came to an end in December 2020. The IOE indicates that to date, elections have not been held to replace employer directors whose mandates have expired in the following institutions: the Maritime Port Authority (AMP); the International Centre for Fairs and Conventions (CIFCO); the Independent Executive Committee for Ports (CEPA); the Salvadoran Tourism Corporation (CORSATUR); the Salvadoran Environmental Fund (FONAES); and the National Fund for Public Housing (FONAVIPO). The IOE also indicates that, between April and July 2022, the Government held elections for the employer representatives on the CNSM, for which ANEP affiliated organizations submitted candidates. However, four months after the elections, the persons elected have still not been sworn in. The IOE states that the most serious interference has been in the reforms to the 23 laws, which have prevented employers from being able to elect their representatives to the boards of the 23 tripartite and joint bodies governed by the laws. That faculty has been transferred to the President of the Republic, who not only chooses the employer representatives on the 23 public bodies, but is also empowered to dismiss them, in a discretionary and arbitrary manner. The IOE states that these reforms are still in force, despite the Committee of Experts' conclusions of February 2022, and the conclusions of the Committee on the Application of Standards of June 2022, which both state that these reforms should be repealed as they are contrary to obligations under international ILO Conventions.

The IOE also indicates that, after the President of the Republic's statement of 15 September 2022 announcing his intention to present his candidature for the Presidency in the upcoming elections, the ANEP issued a statement on 19 September, declaring that immediately consecutive presidential re-election is expressly prohibited in the Constitution of the Republic. The IOE claims that the Government representatives subsequently made use of social networks to attack and disqualify the ANEP. Furthermore, the same representatives approached the presidents of ANEP affiliated employers' organizations, and applied pressure on them to give public support to the presidential re-election, and to resign their ANEP membership. Finally, the IOE alleges that the Government has cancelled jointly scheduled and organized meetings and events.

The Committee expresses its **deep concern** regarding the new allegations of acts of interference, harassment and marginalization against the ANEP as from September 2022. **In consequence, the Committee urges the Government to take the necessary measures to ensure the effective and immediate operation of the CST, respecting the independence of the social partners, including with regard to the appointment of their representatives. The Committee refers to its previous recommendations and requests the Government to report on any developments in this respect, as well as on the content and outcome of tripartite consultations held within the framework of this tripartite body. The Committee also urges the Government to take necessary measures to ensure without delay the repeal of the 23 decrees which transfer the function of electing employers' representatives from the employers to the President of the Republic, thus depriving the employers' organizations of the exercise of their right to freely elect their representatives, in conformity with the instruments ratified by the country. The Committee also urges the Government to take the necessary measures to put a stop to the delays in issuing the credentials of workers' organizations, and to make every effort to ensure the formulation and adoption of the road map requested by the International Labour Conference, without delay.**

Article 2. Ensure effective tripartite consultations. Issuance of credentials. The Committee notes that the Government recognizes that the legislation in force requires updating with a view to ensuring issuance of credentials to workers' organizations. In this regard, the Government reports that a study process has begun to propose amendments to the Labour Code in order to fluidify and accelerate the issuance of credentials. The Government adds that, having committed to providing immediate

responses, the MTPS has set up a Trade Union Service Office in the Directorate General for Labour, to provide legal assistance to union representatives.

In its observations, the ITUC identifies the requirement under the Labour Code that workers' organizations renew their executive boards every 12 months as a major obstacle to its participation in the CST and other tripartite organizations in the country. The ITUC indicates that the law requiring this renewal is unfounded and considers that it constitutes a form of interference in the functioning of the organizations in question. The ITUC recalls that *Article 3* of the Convention establishes that representatives shall be freely chosen, and that the legal requirement of annual renewal is thus a violation of that freedom. Finally, it indicates that the employers' organizations are subject to a two-year renewal period. The ITUC stresses that while progress has been made, all these considerations imply that the Government is still not fulfilling the requirements of the Convention. The Organization insists that the Government take the necessary measures to conform fully with the Convention: (i) ensure without delay the full composition of the CST; (ii) simplify and fluidify the process for designating workers' representatives and (iii) amend the provision of the Labour Code that provides for annual renewal of trade union executive boards. In this regard, the ITUC requests the Government to implement fully the recommendations of the tripartite mission, as well as the conclusions of the Committee on the Application of Standards. ***The Committee urges the Government to adopt without delay the necessary measures to repeal the legal obligation on trade unions to request renewal of their legal status every 12 months and requests the Government to provide detailed and updated information in its next report on all progress achieved in this respect.***

Article 5(1)(b). Effective tripartite consultations. Submission. The Committee notes the information provided by the Government regarding the ten instruments submitted for examination by the CST on 19 May 2022, before transfer to the Legislative Assembly in order to comply with the obligation of submission provided for in article 19(5) of the Constitution of the ILO. While the Committee welcomes the transmission of these instruments to the CST, it recalls that, to be effective, they must be submitted to the legislative body which, in the case of El Salvador, is the Legislative Assembly. ***The Committee trusts that the Government will report as soon as possible on the submission of the above-mentioned instruments to the legislative body, following their discussion within the CST. The Committee again reiterates that it hopes to see progress in full and sustained compliance with the Convention as soon as possible, including the regular holding of effective tripartite consultations within the CST, on the subjects provided in Article 5 of the Convention, as well as the promotion of stable and continuous social dialogue in the other tripartite entities in the country. In this regard, the Committee recalls that ILO technical assistance remains at the disposal of the tripartite constituents to support the efforts made by all the tripartite actors to ensure full compliance with the provisions of the Convention.***

Grenada

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 5 of the Convention. Effective tripartite consultations. The Committee recalls that, in its previous comment, it had requested the Government to provide detailed information on each of the tripartite consultations held on matters concerning international labour standards covered by the Convention. The Government indicates in its report that tripartism is working well in the country to the extent that it has moved towards establishing a Committee of Social Partners. The said Committee includes civil society

organizations and the conference of churches; it is responsible for the monitoring of the IMF Structural Adjustment Programme 2014–16 in Grenada, including labour reforms. Additionally, the Government specifies that a comprehensive review of the Labour Code was conducted during the 2014–15 period. Moreover, the Government recalls that, pursuant to section 21(2) of the Employment Act, the functions of the Labour Advisory Board reflect the provisions of *Article 5(1)* of the Convention. ***The Committee requests the Government to provide detailed information on the activities of the Labour Advisory Board on the tripartite consultations on international labour standards covered by the Convention, including full particulars on the consultations held on each of the matters listed in Article 5(1) of the Convention. The Government is also requested to indicate the intervals at which the abovementioned consultations are held, and the nature of the participation by the social partners during these consultations.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Ireland

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1979)

Previous comment

Article 5 of the Convention. Effective tripartite consultations. The Committee welcomes the information provided by the Government on the activities of the ILO Interdepartmental Group (IDG), established in 2017 to coordinate Ireland's national policy positions on agenda items relating to the ILO Governing Body and the International Labour Conference during Ireland's titular membership on the Governing Body. The Government reports that the quarterly meetings of the IDG are expected to be reduced to biannual meetings following the completion of Ireland's titular membership in June 2021. It adds that, in addition to the regular IDG meetings, the Irish Business and Employers Confederation (DETE) consults the Irish Confederation of Trade Unions (ICTU) and the Irish Business and Employers Confederation (IBEC) on all of the matters covered under *Article 5(1)*. The Committee notes the information provided in the Government's report on consultations held concerning reports to be submitted to the ILO (*Article 5(1)(a)*), proposals to be made to the competent authority in connection with article 19 submissions (*Article 5(1)(b)*), unratified Conventions and Recommendations to which effect has not yet been given (*Article 5(1)(c)*), reports to be submitted to the ILO under article 22 of the ILO Constitution (*Article 5(1)(d)*) and proposals concerning the denunciation of ratified Conventions (*Article 5(1)(e)*). The Government adds that the DETE also consults with the social partners on ad hoc projects such as the ILO National Centenary Event in 2019. The Government reports that, following the outbreak of the COVID-19 pandemic in 2020, the IDG met virtually with the social partners. Tripartite consultations were held virtually in February 2021, prior to the March 2021 Governing Body, as well as prior to the June 2021 Conference. In addition, the Committee notes with **interest** Ireland's ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, in 2019, following tripartite consultations. It further notes the Government's indication that priority consideration is being given to the possible ratification of the Violence and Harassment Convention, 2019 (No. 190), and that tripartite consultations are envisaged in this respect once a review of the Convention's compatibility with the national legislation has been carried out. ***The Committee requests the Government to continue to provide detailed updated information concerning the activities of the ILO Interdepartmental Group relevant to the application of the Convention, as well as on the content and outcome of tripartite consultations held on each of the matters related to international labour standards set out in Article 5(1) of the Convention.***

Malawi

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1986)

Previous comment

Articles 2(1), 5(1) and 6 of the Convention. Effective tripartite consultations. Reports on consultations. In its previous comments, the Committee requested the Government to provide detailed updated information concerning the procedures put in place to ensure effective tripartite consultations. The Committee further requested the Government to provide updated information on the nature and outcome of tripartite consultations held during the period covered by the report on each of the matters concerning international labour standards set out in *Article 5(1)(a)–(e)*, including information as to the frequency of such consultations and to supply copies of reports produced on the working of the procedures provided for in the Convention (*Article 6*). The Government reports that consultations regarding the Safety and Health in Mines Convention, 1995 (No. 176), have not yet taken place. The Government undertakes to keep the Committee informed of progress made in this regard. The Committee notes, however, that the Government does not provide information with regard to the procedures in place to ensure effective tripartite consultations concerning the measures to be taken at the national level in relation to international labour standards, as required under *Article 2(1)* of the Convention. Moreover, the Government does not provide copies of any reports produced on the working of the procedures provided for in the Convention (*Article 6*). **The Committee therefore reiterates its request that the Government provide updated detailed information on the procedures established to ensure effective tripartite consultations (Article 2(1) of the Convention). The Committee also once again requests the Government to communicate concrete information on the content, outcome and frequency of tripartite consultations held during the period covered by the report on each of the matters concerning international labour standards set out in Article 5(1)(a)–(e) of the Convention, particularly in relation to: questionnaires concerning items on the agenda of the Conference (Article 5(1)(a)); the submission of instruments adopted by the Conference to the National Assembly (Article 5(1)(b)), and reports to be made on the application of ratified Conventions (Article 5(1)(d)). In addition, the Committee reiterates its request that the Government supply copies of any reports produced on the operation of the procedures provided for in the Convention (Article 6).**

Mexico

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1978)

Previous comment

The Committee notes the observations of the Authentic Workers' Confederation of the Republic of Mexico (CAT) and the Confederation of Workers of Mexico (CTM), communicated by the Government in its report. The Committee also notes the Government's replies to the observations of the Confederation of Employers of the Mexican Republic (COPARMEX) in 2019, included in its report.

Articles 4 and 5 of the Convention. Effective tripartite consultations. The Committee notes with **interest** the detailed information provided by the Government on the tripartite consultations held during the period covered by the report on all matters related to international labour standards covered by *Article 5(1)* of the Convention. In this regard, the Government indicates that the social partners were consulted prior to the submission to the Senate of the Republic of the Violence and Harassment Convention, 2019 (No. 190) and its accompanying Recommendation (No. 206); as well as the Safety and Health in Agriculture Convention, 2001 (No. 184) and its accompanying Recommendation (No. 192). The

Committee also notes that, in reply to the 2019 observations of COPARMEX, the Government indicates its agreement that dialogue and information are the basis for gathering more information for opinions and improving decision-making. In this regard, the Government expresses its willingness to continue working to ensure that the most relevant labour policy decisions are adopted using social dialogue mechanisms. With regard to tripartite consultations on unratified instruments (*Article 5(1)(c) of the Convention*), the CTM points out that these are not effective, as only the instruments are sent to the workers' organizations, and the proposals are examined without taking into consideration their opinions during the discussions or when reports on the matter are drawn up. The CTM emphasizes that social dialogue mechanisms are needed that allow their comments, conclusions and responses to be heard. It also maintains that no support or financing is received for the specialized training required for participants in these procedures, in accordance with *Article 4(2) of the Convention*. Therefore, intervention, where required, is spontaneous. It emphasizes the need for regular training for the tripartite partners with a view to ensuring their participation in consultations in a professional manner. The Committee also notes the Government's indication that no consultations have been held with the social partners regarding the manner in which the functioning of the procedures required by the Convention might be improved, so that the social partners have all the necessary information far enough in advance to formulate their opinions before a final decision is taken on the matter under consultation. Lastly, the Committee notes the information provided by the Government regarding the tripartite consultations held prior to the adoption of various legislative initiatives and measures relating to labour, such as the reforms introduced to the legislation to regulate labour outsourcing and to transfer the jurisdictional function in labour matters from the conciliation and arbitration boards to labour courts attached to the federal judiciary and state departments judiciaries. ***The Committee requests the Government to continue providing detailed and updated information on the specific content, frequency and outcome of the tripartite consultations held on all issues relating to international labour standards covered by Article 5(1) of the Convention. In the light of the observations of the CTM, the Committee requests the Government to provide information on the measures adopted or envisaged with a view to building the capacity of the tripartite partners and strengthening mechanisms and procedures, in accordance with Article 4 of the Convention and paragraphs 3(3) and 4 of Recommendation No. 152. It also encourages the Government to adopt the necessary measures to hold consultations with the social partners regarding the manner in which the functioning of the procedures required by the Convention might be improved, so that the social partners have all the necessary information far enough in advance to formulate their opinions before a final decision is taken on the matter under consultation, in particular concerning unratified instruments (Article 5(1)(c) of the Convention). Lastly, the Committee requests the Government to keep it informed of the result of the consultations held with the social partners relating to the possible ratification of Convention No. 184 and Convention No. 190.***

Nicaragua

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1981)

Previous comments

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2021, which were examined in the context of its [observation of 2021](#) regarding the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

Article 5 of the Convention. Effective tripartite consultations. The Committee notes that the Government once again indicates that it has informed the social partners of the questionnaires on the

issues included in the agenda of the International Labour Conference, the replies to the questionnaires under article 19 of the ILO Constitution and the reports on ratified Conventions under article 22 of the ILO Constitution. In this respect, the Committee once more reminds the Government that "... to fulfil their obligations under this provision of the Convention, it is not sufficient for governments to communicate to employers' and workers' organizations copies of the reports that they send to the Office, since any comments that these organizations may subsequently transmit to the Office on these reports cannot replace the consultation which have to be held during the preparation of the reports" (2000 General Survey on tripartite consultation, paragraph 92). The Committee highlights that consultation of the most representative employers' and workers' organizations implies the active participation of the organizations in the formulation and communication of their respective views. ***The Committee therefore requests the Government to provide detailed and updated information on the frequency, content and results of the tripartite consultations held on all questions related to international labour standards covered by Article 5(1)(a)-(e) of the Convention, in particular those related to the items included on the agenda of the Conference (Article 5(1)(a)); the submission of instruments adopted by the Conference (Article 5(1)(b)); the examination of unratified Conventions (Article 5(1)(c)); the reports that must be made on the application of ratified Conventions (Article 5(1)(d)); and the proposals for the denunciation of ratified Conventions (Article 5(1)(e)). Moreover, the Committee requests the Government to take measures to promote the active participation of the social partners in the tripartite consultations.***

[The Government is asked to reply in full to the present comments in 2023.]

Nigeria

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

Previous comment

Article 1 of the Convention. Consultations with representative organizations. In its previous comments, the Committee expressed the firm hope that the pending legislative reforms, particularly the National Labour Institutions Bill still pending before the National Assembly, would be finalized without further delay. It reiterated its request that the Government report on the results of the reform and its impact on the improvement of consultations with representative organizations that enjoy freedom of association, as required under this Convention. In this context, since 2004, the Committee has also consistently reminded the Government that it is important for employers' and workers' organizations to enjoy the right to freedom of association, without which there could be no effective system of tripartite consultation. The Committee also requested the Government to indicate the outcome of the meetings held with the stakeholders in April 2018 in relation to the reforms, and to provide a copy of the relevant legislation once adopted. The Committee notes the Government's reference in its report to the inauguration of the National Labour Advisory Council (NLAC) for 2021–25. According to information available on the Federal Ministry of Information and Culture website, during the inauguration, the Government indicated that, from 2nd to 4th March 2020, the Ministry of Labour had collaborated with the Nigeria Labour Congress (NLC), the Trade Union Congress (TUC) and the Nigeria Employers' Consultative Association (NECA) in reviewing the Draft National Labour Bills, which were withdrawn from the National Assembly for review and resubmission. At that time, the Government further indicated that the adoption of the pending legislative reforms would expand the scope and functions of the NLAC. ***The Committee therefore expresses once again the firm hope that the pending legislative reforms will be finalized and adopted without further delay. It also reiterates its request that the Government provide detailed information on the results of the reform and its impact on the improvement of consultations with representative organizations that enjoy freedom of association, as required under the present***

Convention. The Committee further requests the Government to indicate the content and outcome of the meetings held with the stakeholders in March 2020 in relation to the reforms, and to provide a copy of the relevant legislation once it is adopted.

Article 5(1). Tripartite consultations required by the Convention. In reply to the Committee's previous comments, the Government reports that the social partners are consulted on issues related to international labour standards, particularly regarding the possibility of ratifying ILO Conventions, as well as in relation to reports on ratified Conventions submitted to the ILO pursuant to article 22 of the ILO Constitution. In addition, Conference preparatory meetings are held with the social partners to harmonize the country's position. The Committee notes with **interest** that, with the support of the ILO Office in Abuja, tripartite consultations were held within the NLAC in a two-day session from 23 to 24 March 2021. The Committee notes from the website of the Federal Ministry of Information and Culture, that the March 2021 session was the first session of the NLAC held since 2014. In addition, the Committee notes the ILO press release of 24 March 2021, according to which, during the March 2021 consultations, the tripartite constituents discussed the possible ratification of the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); the Private Employment Agencies Convention, 1997 (No. 181); the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187); and the Violence and Harassment Convention, 2019 (No. 190). The Committee notes that, according to the press release, all four Conventions discussed are to be ratified. Moreover, it was agreed during the March 2021 consultations that the regularity of NLAC meetings would be ensured in conformity with this Convention. Finally, the Committee notes that the ILO is currently supporting the development of the first National Industrial Relations Policy and the Decent Work Country Programme (DWCP) III for Nigeria. **The Committee requests the Government to continue to provide updated, detailed information on the content, outcome and frequency of tripartite consultations held on all matters concerning international labour standards covered by the Convention, including in relation to: questionnaires on Conference agenda items (Article 5(1)(a)); proposals to be made to the competent authorities in connection with the submission of Conventions and Recommendations pursuant to article 19 of the ILO Constitution (Article 5(1)(b)); the re-examination at appropriate intervals of unratified Conventions and Recommendations to which effect has not yet been given (Article 5(1)(c)); questions arising out of reports to be presented on the application of ratified Conventions (Article 5(1)(d)); and proposals concerning the possible denunciation of ratified Conventions (Article 5(1)(e)).**

Article 6. Operation of the consultative procedures. The Committee notes that the Government does not provide information in this regard. **The Committee therefore reiterates its request that the Government indicate whether, in accordance with Article 6, the representative organizations have been consulted in the preparation of an annual report on the working of the consultation procedures provided for in the Convention and, if so, to indicate the content and outcome of these consultations.**

Peru

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2004)

Previous comment

The Committee takes note of the observations of the General Confederation of Workers of Peru (CGTP), the Single Confederation of Workers of Peru (CUT-Peru), the Autonomous Workers' Confederation of Peru (CATP), and the Confederation of Workers of Peru (CTP), as well as those of the National Confederation of Private Enterprise Institutions (CONFIEP), received on 1 September 2022. **The Committee requests the Government to provide its comments in this respect.**

Article 2 of the Convention. Appropriate procedures. In its previous comments, the Committee noted that the National Labour and Employment Promotion Council (CNTPE) was no longer meeting because the trade union confederations had suspended their participation in the Council in May 2017 due to their disagreement with the approval of standards on collective stoppages and labour inspection and with the submission to the executive of a series of bills on voluntary arbitration, on the grounds that the bills failed to take account of the confederations' inputs. The Committee notes the Government's indication that tripartite consultations on minimum wages and their periodic adjustment were held within the CNTPE between 2018 and 2019. In a complementary manner, a wide-ranging process of social dialogue went ahead on various subjects, such as the National Plan on Competitiveness and Productivity. Moreover, in 2019 roundtables were held on a range of social questions with each of trade unions that are CNTPE members. The Committee notes however that the confederations maintain that despite the agreement reached within the CNTPE to submit the National Plan on Competitiveness and Productivity to tripartite dialogue, the Government approved the Plan on 28 July 2019 without prior consultations with the social partners. The Committee also notes the Government's indication that between 2020 and 2021, while the COVID-19 pandemic prevented the holding of CNTPE sessions, various bilateral meetings and working groups on social and labour issues took place in the context of the crisis. In that regard, the confederations assert that the social partners were not consulted regarding the above-mentioned measures, which also transferred the effects of the health crisis to the workers. They add that they were only convened to meetings at which a restricted range of the measures were presented and were given a very tight deadline to formulate their contributions. Finally, the Committee notes that the Government reports that the relaunching session of the CNTPE for 2021–26 took place on 13 November 2021, in the presence, among other government representatives, of the President of the Republic, as well as representatives of the confederations and of employers' organizations. ILO officials also attended. The Government reports that the CNTPE held two sessions between January and May 2022.

The Committee notes that the confederations, in their observations, claim that social dialogue and its supporting institution in the country, the CNTPE, are seriously debilitated. They argue that CNTPE activities have lacked continuity, and that between 2016 and 2021 only eight of the 72 ordinary sessions that should have been held took place, the CNTPE internal regulations stipulating one ordinary meeting per month. Moreover, the confederations stress that in Act No. 29.381 of 2009, establishing the organization and functions of the Ministry of Labour and Employment Promotion (MTPE), all references to the CNTPE as the consultative body of the MTPE were removed. They maintain that although the Regulation on the organization and functions of the CNTPE (Supreme Decree No. 01-2005-TR) remains in force, the CNTPE currently has no organic support guaranteed by a regulation having force of law. The confederations conclude that measures must be urgently adopted to ensure free enjoyment of trade union rights with a view to ensuring a genuine relaunching of the CNTPE.

The Committee notes that the CONFIEP also argues that the Government is not complying with the mechanisms and procedures for prior tripartite consultation established by the Convention. In the first instance, the CONFIEP indicates that the CNTPE is mandated to give opinions on draft legislation drawn up by the Government. In that connection, the CONFIEP accuses the Government of approving, without prior consultation with the social partners, a series of rules altering the regulations governing the outsourcing of services, and the Regulations of the Act on Collective Labour Relations, making structural changes to the regulation of freedom of association, collective bargaining and arbitration. The CONFIEP also indicates that Ministerial Decision No. 232-2021-TR established the Sectoral Commission for the formulation of the first draft of the Labour Code as a temporary body composed solely of representatives of the MTPE. The Sectoral Commission expressly ruled that the first draft would subsequently be submitted to the CNTPE. However, the CONFIEP states that the first draft was not submitted to the CNTPE but was published on the MTPE website, setting a deadline of only 20 days for the submission of general comments in relation to almost 500 proposed provisions. The CONFIEP reports that as a result of these facts, on 25 April and 28 July 2022, with the International Organisation

of Employers' (IOE) endorsement, it sent to requests for urgent intervention to the ILO, alleging serious non-compliance with the Convention and calling for the restoration of tripartite social dialogue in the country without delay. The CONFIEP states that on 26 July 2022, it suspended its participation in the CNTPE because of the serious damage inflicted by the Government on social dialogue and on the CNTPE itself as an institution. ***In light of the concerns expressed by both the trade union confederations and the CONFIEP, the Committee urges the Government to adopt the necessary measures to guarantee that effective tripartite consultations are held and that the CNTPE can begin functioning again without delay. It also requests the Government to send detailed and updated information on these measures. The Committee firmly hopes that the circumstances obstructing the functioning of the CNTPE can be rapidly resolved.***

Article 5. Effective tripartite consultations. In its previous comments, the Committee noted the observations of the CATP, in which the confederation maintained that the Government sent its reports to the workers' organizations with very little time for the latter to formulate their observations. In that connection, the Committee expressed the hope that the Government would take steps to establish an adequate time frame to give employers' and workers' sufficient notice to form their opinions and make any comments they consider appropriate on the drafts communicated by the Government. The Committee notes the Government's indication that during the period covered by the report tripartite consultations were held regarding the submission of the Violence and Harassment Convention, 2019 (No. 190), which was ratified on 8 June 2022. The Government reports that on 23 June 2022 a tripartite workshop on the Maritime Labour Convention, 2006, had been planned, with the participation of ILO and MTPE specialists and of the actors concerned. Regarding consultations on the draft reports on ratified Conventions, the Government indicates that these reports were communicated to the most representative organizations of employers and workers to allow them to formulate their comments thereon. For their part, the trade union confederations maintain that they received the drafts on 2 August 2022, which made the presentation of coherent, documented comments before the closing date for submission of reports (31 August) difficult. The confederations also refer to the MTPE "Guidelines for international affairs relative to the International Labour Organization", which allow a deadline of 20 working days to employers' and workers' organizations for the formulation of their opinions on the draft reports. Given the complexity of some of the issues covered by international standards, the confederations stress that the deadlines should be more generous to allow for the collection and processing of information, and should include a stage of face-to-face dialogue between the parties, prior to the sending of the reports. ***The Committee requests the Government to continue to provide detailed and updated information on the frequency, content and results of the tripartite consultations held on all questions related to international labour standards covered by the Convention. The Committee also requests the Government to indicate the manner in which account is taken of the representative organizations of workers' opinions on the functioning of the procedures for effective prior consultation required by the Convention, and also on the possibility of establishing modified procedures that answer to the concerns expressed by the trade union confederations in their observations.***

Portugal

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1981)

[Previous comment](#)

The Committee notes the observations of the General Workers' Union (UGT), transmitted by the Government in its report, which provide information on the issues addressed in this comment.

Article 5 of the Convention. Effective tripartite consultations. The Committee notes the indication in the Government's report that it has engaged in consultations with the most representative workers' and employers' organizations on each of the issues set out in *Article 5* of the Convention. The Committee also notes the Government's indication that, during the 107th, 108th, 109th and 110th Sessions of the International Labour Conference, the Government held information sessions and technical discussions with the social partners, in order to organize the Government delegation for the Conference. The Government also informs that a study is ongoing into the feasibility of ratifying the Violence and Harassment Convention, 2019 (No. 190). The Committee notes that Portugal ratified the Work in Fishing Convention, 2007 (No. 188), on 26 November 2019 and the Protocol of 2014 to the Forced Labour Convention, 1930, on 23 December 2020. The Committee also notes that, in its observations, the UGT reiterates that with respect to ratified Conventions and unratified Conventions and Recommendations to which effect has not yet been given consultation procedures are respected in a timely and appropriate manner. However, it considers that the procedure for the ratification of Conventions should be simpler and shorter, and that the information on the basis for the decision to ratify or not a given Convention should be clearer and shared in due time with the social partners. The Committee takes note of the Government's reply to these observations, in which it reiterates that studies on the feasibility of ratifying new Conventions are complex, since they involve the consultation of several departments of the public administration depending on the matters covered by the Conventions under consideration. In addition, it indicates that the possibility of making legislative amendments identified by the study as necessary must often be assessed and that this assessment varies depending on the content of the Convention. The Government reiterates that the public administration often lacks the necessary human resources to be able to carry out feasibility studies quickly. ***The Committee requests the Government to continue to provide detailed and updated information on the content and outcome of the tripartite consultations held on each of the matters covered by Article 5(1) of the Convention. In particular, the Committee requests the Government to provide updated information on the consultations held on the possibility of ratifying the Violence and Harassment Convention, 2019 (No. 190).***

Uganda

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 2 and 5(1) of the Convention. Effective tripartite consultations. In its 2016 observation, the Committee reiterated its request that the Government provide information on the consultations held within the National Tripartite Council and the other tripartite bodies on the matters set out in *Article 5(1)(a)–(e)* of the Convention. The Government indicates in its report that it has constituted a national task force on the review of the application of Conventions and reports on international labour standards to address the issues raised by the Committee in its previous reports. It adds that consultations were held on international labour standards covered by *Article 5(1)* of the Convention and on the implementation of the Decent Work Country Programme, minimum wages, and matters related to the Industrial Court. ***The Committee once again requests the Government to provide specific information on the content and outcome of tripartite consultations held within the National Tripartite Council, as well as other tripartite bodies on all matters concerning international labour standards as set out in Article 5(1)(a) through (e) of the Convention, in particular replies to questionnaires on Conference agenda items (Article 5(1)(a)); proposals to be made to the competent authority or authorities in connection with the submission of instruments adopted by the Conference to Parliament (Article 5(1)(b)); the re-examination at appropriate intervals of unratified Conventions and Recommendations to which effect has not yet been given (Article 5(1)(c)); and reports to be presented on the application of ratified Conventions (Article 5(1)(d)).***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Bolivarian Republic of Venezuela

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1983)

Previous comment

The Committee notes the observations of the Federation of Chambers and Associations of Commerce and Production (FEDECAMARAS), received on 11 February 2022, and those communicated by the Government in its report. It also notes the observations of the Bolivarian Socialist Confederation of Men and Women Workers in Urban and Rural Areas and Fishing of Venezuela (CBST-CCP), received on 22 April 2022, and those communicated by the Government. The Committee further notes the observations of the Confederation of Workers of Venezuela (CTV), the Federation of University Teachers' Associations of Venezuela (FAPUV) and the Independent Trade Union Alliance Confederation of Workers (CTASI), which were communicated by the Government. The Committee also notes the observations of the National Union of State and Public Service Workers (UNETE), received on 5 September 2022. **The Committee requests the Government to provide its response to the latter observations.**

Follow-up to the recommendations of the Commission of Inquiry (complaint made under article 26 of the Constitution of the ILO)

The Committee notes the discussions held at the 344th, 345th and 346th Sessions of the Governing Body (March, June and October-November 2022) on developments in relation to the Social Dialogue Forum concerning the implementation of the recommendations of the Commission of Inquiry in relation to the Government of the Bolivarian Republic of Venezuela, and the decisions adopted by the Governing Body in this regard. The Committee observes that the Governing Body will once again at its 347th Session (March 2023) examine the progress made by the Government in giving effect to the recommendations of the Commission of Inquiry, and will continue its examination of possible measures to achieve this objective.

Articles 2, 5 and 6 of the Convention. Effective tripartite consultations. The Committee welcomes the actions taken by the Government in the various dialogue mechanisms established with a view to giving effect to the Convention and reinforcing social dialogue in the country, and encourages the Government to continue these activities. In this regard, the Committee notes the Government's indication that progress continues to be made in the implementation of its national dialogue policy with all of the productive sectors in the country. The Government considers that broad and inclusive social dialogue is being reinforced with a view to improving the application of international labour standards, in accordance with the provisions of the Convention and the recommendations of the various ILO supervisory bodies. In this connection, the Government reports that, with ILO technical assistance and the virtual presence of the ILO Director-General, the Social Dialogue Forum was inaugurated virtually on 7 March 2022, and carried out in-person sessions from 25 to 29 April 2022. The following workers' and employers' organizations of the country participated in the Forum: CBST-CCP, CTASI, CTV, CGT, UNETE, the Confederation of Autonomous Trade Unions (CODESA), FEDECAMARAS and the Federation of Crafts, Micro, Small and Medium-sized Industries and Enterprises of Venezuela (FEDEINDUSTRIA). During the Social Dialogue Forum, subjects were discussed relating to the Conventions covered by the Commission of Inquiry. The Government indicates that the Social Dialogue Forum resulted in a plan of action and its respective timetable of activities, which were supported by the representatives of the tripartite constituents present (with the exception of CODESA and UNETE who, although they participated actively in the Social Dialogue Forum, refrained from supporting the plan of action). The Government indicates that, with a view to the implementation of the plan of action, bilateral meetings were commenced with the various social partners between 11 and 15 July 2022, with a view to

continuing to make progress towards the achievement of the general commitments, and those specific to each of the workers' and employers' organizations.

The Committee also notes the information provided by the Government in the Progress Report on Developments concerning the Social Dialogue Forum, which was adopted by the Government Body at its 346th Session (October-November 2022). It notes the follow-up session of the Social Dialogue Forum held in September 2022, with ILO technical assistance. Representatives of FEDECAMARAS, CBST-CCP, FEDEINDUSTRIA, CTASI, CTV and CGT participated in the second in-person session of the Social Dialogue Forum. The participants agreed to update the plan of action adopted during the first in-person session of the Social Dialogue Forum with a view to adopting and implementing an agreed timetable for effective annual consultations on international labour standards. In particular, it was agreed: (i) to hold training programmes on international labour standards (one of them focusing on Conventions for which reports are due); (ii) to hold a preparatory meeting for the Conference; (iii) that the Government would send the draft reports on ratified Conventions to the employers' and workers' organizations sufficiently in advance and grouped by subjects; and (iv) to organize thematic meetings with representatives of employers' and workers' organizations for consultation on the reports. The Government indicates that a third session of the Social Dialogue Forum will be held from 6 to 10 February 2023.

In this context, the Committee welcomes the various activities that the Government indicates that it has undertaken to carry out or has implemented with a view to giving effect to the Convention and reinforcing social dialogue, including those implemented within the framework of the plan of action and the timetable adopted as a result of the Social Dialogue Forum:

- (i) The draft reports on ratified Conventions for the 2022 reporting period were sent to the social partners between 15 July and 10 August 2022. Then, on 9 and 11 August 2022, in-person meetings were held with the social partners to discuss the content of the draft reports before the final texts were sent to the ILO on 1 September 2022. During the consultations, it was agreed that the workers' and employers' organizations that wished to do so would provide their observations on the draft reports to the national Labour Office and these would be attached to the report.
- (ii) In the context of the first session of the Social Dialogue Forum, at the urging of the Government, parallel meetings were held between employers' and workers' organizations with a view to reaching agreement on the composition of the national delegation which attended the 110th Session of the Conference (27 May to 11 June 2022).
- (iii) Minutes were exchanged between the principal commissions of the National Assembly and the Ministerial Office for Labour with a view to promoting social dialogue and consultations with workers' and employers' organizations on draft legislation with a direct impact on the world of work. The Government indicates that, at the request of the social partners, the necessary coordination is being carried out for the holding of consultations on various draft legislative texts respecting special conditions of work supplementing or derived from the Basic Labour Act (LOTTT).
- (iv) On 4 July 2022, a meeting was held between the Minister of the People's Power for Industry and National Production and the representatives of FEDECAMARAS and FEDEINDUSTRIA with a view to reviewing and developing various measures related to national production.
- (v) The Government indicates that, on 23 August 2022, the inclusion was approved of the employers' organizations FEDECAMARAS and FEDINDUSTRIA in the National Productive Economy Council, which has the objective of achieving the structural transformation of the country to restimulate production.

The Committee encourages the Government to continue its efforts in this regard.

The Committee also notes the emphasis placed by the CBST-CCP in its observations on the measures intended to reinforce social dialogue, to which the Government refers in its report. FEDECAMARAS views positively the acceptance by the Government of ILO technical assistance and the holding of the Social Dialogue Forum. FEDECAMARAS nevertheless considers that, while there has been an improvement in 2022 in relations with the Government and meetings have been held between the partners which have been respectful and cordial, social dialogue in the country is still characterized by certain delays and weaknesses that require urgent attention. In this regard, FEDECAMARAS expresses concern at the fact that the Government has not formally accepted the recommendations of the 2019 Commission of Inquiry and has not yet established a structured tripartite consultation body, which would make the process of dialogue more effective. It adds that the meetings that have been held do not comply with the formalities recommended by the Commission of Inquiry and the ILO supervisory bodies, such as an independent chair or secretariat and a follow-up mechanism on compliance with the agreements reached, the adoption of an agreed schedule of meetings and the keeping of records. The Committee also notes that the CTASI, CTV and FAPUV consider that the tripartite consultations held have not been effective and, although the bilateral meetings held between the Government and the representative organizations are useful to promote social dialogue, they are not sufficiently effective to fully comply with the Convention. UNETE considers that effective tripartite consultations have still not been held on the subjects relating to international labour standards covered by the Convention. In this regard, the Committee notes the information provided by the social partners in their observations concerning the aspects of the tripartite consultations required by the Convention and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152), for which the adoption of additional measures is necessary to ensure their application and guarantee effective consultations:

- (i) With regard to the tripartite consultations held on draft reports on ratified Conventions (*Article 5(1)(d)* of the Convention), the Committee observes that the workers' organizations CTASI, CTV and FAPUV as well as FEDECAMARAS indicate that there has been an improvement in the process of consultation, as the draft reports have been provided to the social partners for their subsequent tripartite discussion prior to their being sent to the ILO. However, they emphasize that it is still necessary for the reports to be provided to them earlier and for more meetings to be held for their review, in light of the high number of reports for which to comments should be made. In this regard, CTASI, CTV and FAPUV consider that the draft reports provided by the Government in 2022 were not received sufficiently early, with meetings in some cases being held with workers' organizations only one day after their receipt of the draft reports. UNETE complains that the draft reports were only received on 31 August 2022, one day before they were sent to the ILO. In this regard, the Committee observes that, within the context of the second Social Dialogue Forum, the tripartite constituents agreed to advance the beginning of the preparatory work for the sending of reports in 2023 and to provide the draft reports at least two weeks before the meetings for consultation with the social partners. In this respect, the Committee recalls that, in order "to be 'effective', consultations must take place before final decisions are taken, irrespective of the nature or form of the procedures adopted. [...] The effectiveness of consultations thus presupposes in practice that employers' and workers' representatives have all the necessary information far enough in advance to formulate their own opinions" (2000 [General Survey on tripartite consultation](#), paragraph 31).
- (ii) With reference to the holding of tripartite consultations on labour legislation and social and economic policies (Paragraph 6 of Recommendation No. 152), FEDECAMARAS emphasizes that mechanisms for the direct consultation of workers' and employers' organizations have not been adopted in practice. FEDECAMARAS indicates that the social partners were not consulted in relation to the adoption by the National Assembly of a series of laws (such as

the Basic Act on Special Economic Zones). FEDECAMARAS and the workers' organizations CTASI, CTV and FAPUV also indicate that they were not consulted in relation to their adoption in first reading in July and August 2022 of ten Bills on special labour systems under the LOTTT (such as the Special Bill on workers with disabilities). The Committee observes that, according to the report of the Governing Body of 2022, on 11 October 2022, a public consultation was held with employers' and workers' organizations on the Homeworkers' Act with the participation of the CBST-CCP, CTASI, CTV, CGT, FEDECAMARAS and FEDEINDUSTRIA.

- (iii) The CTASI, CTV and FAPUV indicate that they have not received a reply from the Government concerning their call to ratify Conventions Nos 151, 154, 189 and 190 (*Article 5(1)(c) of the Convention*).

While taking due note of the action taken by the Government with a view to reinforcing social dialogue and tripartite consultations, the Committee once again refers to the recommendations of the Commission of Inquiry and requests the Government, in consultation with the social partners and with ILO assistance, to take additional measures to ensure the proper functioning of effective tripartite consultation procedures, including the establishment of mechanisms to institutionalize social dialogue and tripartite consultation. The Committee also requests the Government to continue providing updated information on the measures adopted in this respect to give full effect to the Convention, and to take into account the guidance contained in Recommendation No. 152, including in relation to the consultations undertaken, the nature and form of the procedures established, the measures taken to strengthen these mechanisms and the capacity-building measures implemented for the tripartite constituents, taking national circumstances into account, and the good practices and challenges that have been identified.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 144** (*Afghanistan, Angola, Barbados, Belize, Cabo Verde, Cameroon, Congo, Cook Islands, Dominica, Gabon, Georgia, Greece, Guatemala, Guinea, Guyana, Honduras, Hungary, Indonesia, Iraq, Kazakhstan, Kenya, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Liberia, Lithuania, Malta, Montenegro, Mozambique, Namibia, Nepal, Netherlands, Netherlands: Aruba, Netherlands: Curaçao, Niger, Republic of Korea, Romania, Rwanda, Saint Vincent and the Grenadines, Sao Tome and Principe, Singapore, Slovenia, Syrian Arab Republic, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Yemen*).

Labour administration and inspection

Albania

Labour Inspection Convention, 1947 (No. 81) (ratification: 2004)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2007)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

COVID-19 measures. The Committee notes the Government's statement in its report regarding the labour inspection activities related to COVID-19. In particular, the Government indicates that the State Labour Inspectorate and Social Services (SLSSI), together with the State Health Inspectorate, is part of a task force responsible for monitoring the relevant protocols to reduce the transmission of infection among employees with a view to ensuring a safe and healthy working environment.

Articles 10, 11 and 16 of Convention No. 81 and Articles 14, 15 and 21 of Convention No. 129. Staffing and material means of the labour inspection services; scope of inspections carried out. The Committee previously noted that the number of labour inspectors was not sufficient to perform fully the inspection tasks required by law and that the lack of financial resources limited the ability of inspectors to travel. The Committee notes with **concern** the Government's indication in its report that the number of employees of the SLSSI remains unchanged at 155, with 37 at the central level and 118 at the regional level. It also notes the Government's indication that the total budget of the SLSSI for 2020 amounts to 186,300,000 Albanian lek (ALL) (approximately US\$1,781,000) of which ALL120,278,000 (approximately US\$1,150,000) is the salary fund, ALL20,086,000 (approximately US\$192,000) is the Social Insurance Fund and the rest are investments and operating expenses. Six vehicles are available, of which three are used by the Central Directorate. Only three out of 12 regional branches have a vehicle at their disposal. Moreover, the Government indicates that there are 46 tablets and 55 laptops available for inspectors. **The Committee urges the Government to take the necessary measures to ensure that the budget allocated to labour inspection is sufficient to secure the effective discharge of the duties of the inspectorate, including the provision of suitably equipped offices and necessary transport facilities. The Committee also once again requests the Government to provide specific information on the staffing and material means of the SLSSI in performing inspections in agriculture, including transportation and local offices.**

Articles 12(1) and 16 of Convention No. 81 and Article 16(1) and 21 of Convention No. 129. Right of inspectors to free entry of workplaces and undertaking of inspections as often as is necessary to ensure the effective application of the relevant legal provisions. The Committee previously noted that 10 per cent of inspections were unscheduled and/or emergency inspections, for which an authorizing officer shall issue an authorization within 24 hours.

The Committee notes the Government's information that 13,079 entities were inspected in 2019, of which 78 per cent were planned inspections. Among the 2,823 unscheduled inspections, 197 were due to occupational accidents, 600 were in response to complaints and 2,026 were carried out following indications of flagrant violations. During the first three months of 2020, a total of 2,524 entities were inspected, of which 90 per cent were planned inspections. Among the 239 unscheduled inspections, 38 were due to occupational accidents, 135 were in response to complaints and 66 were carried out following indications of flagrant violations.

The Committee also notes the Government's reference, regarding inspection procedures, to Law No. 10433 of 2011 on inspection and Law No. 9643 of 2006 on labour inspection. Section 13 of the Law on labour inspection provides that the labour inspector and controller are authorized to enter the working premises of any entity without prior notice. According to section 26 of the Law on inspection, inspections shall be carried out in the implementation of the inspection programme as a principle, and "off-programme" inspections may only be carried out in prescribed situations. Section 27 of the Law on inspection also

provides that the administrative inspection procedure is initiated as a rule, upon the issuance of the authorization by the Chief Inspector or the chief inspector of the territorial branch. The inspection may only be initiated without authorization where a flagrant violation is found to be occurring or the occurrence of events, accidents or incidents that have affected or may affect life or health or the environment. The initiation of such an inspection shall be noted immediately in a special part of the inspection report, and the inspector is obliged to notify, without delay, the person responsible for the issuance of the authorization. Section 27 further provides that although the issuance of an authorization in violation of the relevant provisions shall not invalidate the decision of the inspection, it does constitute a disciplinary violation.

Referring to its 2006 General Survey, *Labour Inspection*, paragraphs 265 and 266, the Committee observes that, restrictions maintained on inspectors' free initiative in this regard, such as the requirement for a formal authorization issued by a higher authority, can only stand in the way of achieving the objectives of labour inspection as set out in the instruments. ***The Committee requests the Government to take the necessary legislative measures to ensure that labour inspectors are empowered to make visits to workplaces liable to inspection without previous notice in conformity with Article 12(1)(a) of Convention No. 81 and Article 16(1)(a) of Convention No. 129, and that they are able to undertake labour inspections as often and as thoroughly as is necessary to ensure the effective application of the legal provisions, in conformity with Article 16 of Convention No. 81 and Article 21 of Convention No. 129. The Committee requests the Government to provide information on the measures taken in this regard and to continue to provide information on the undertaking of inspections in practice, indicating the number of scheduled and unscheduled inspections, as well as the total number of workplaces liable to inspection. Lastly, the Committee requests the Government to provide information on any disciplinary measures imposed on labour inspectors related to the procedures for the authorization of inspection under the Law on inspection.***

Article 6 of Convention No. 81 and Article 8 of Convention No. 129. Conditions of service. The Committee notes the Government's indication, in response to the Committee's previous comments on the remuneration scale and career prospects of labour inspectors, that the transfer and promotion of labour inspectors, as civil servants, is subject to Law No. 152 of 2013 on the Civil Service, as well as Decision of the Council of Ministers (DCM) No. 243 of 2015 on admission, movement, probationary period and appointment in the executive category and DCM No. 242 of 2015 on filling vacancies in the lower and middle management category. Regarding the current levels of remuneration, the Government provides information on the current salary categories of labour inspectors, and indicates that field inspectors receive a basic salary of ALL38,000, with a supplemental salary related to educational level and seniority. The Government also indicates that it is unable to provide comparative information between labour inspectors and tax inspectors due to limited data. The Committee further notes the Government's indication that the issue of the payment of inspectors will be addressed in the framework of the salary and job classification reform in process. ***The Committee requests the Government to pursue its efforts to improve the conditions of service of labour inspectors within the framework of the current salary and job classification reform, and to provide information on any progress made or results achieved. It also requests the Government to strengthen its efforts to ensure the availability of comparative information on the actual remuneration scale of labour inspectors in relation to other comparable categories of government employees exercising similar functions, such as tax inspectors or police officers, and to provide this information, when available.***

Articles 5(a), 17 and 18 of Convention No. 81 and Articles 12(1), 22 and 24 of Convention No. 129. Prosecutions and penalties. The Committee previously noted the Government's indication that the policy pursued by the SLSSI intended to reduce the number of fines in a rational way, and it requested the Government to provide statistical information regarding prosecutions and penalties.

The Committee notes the Government's indication, and the information in the Annual Reports on Inspection Activities for 2018 and 2019 (available on the Government's website), that 175 fines were imposed in 2018 and 160 fines in 2019 (compared with the 381 fines in 2011 previously noted by the Committee). Fines were collected with a total value of ALL26,138,600 (approximately US\$249,900) and ALL559,268 (approximately US\$5,340) in interest on arrears from fines. Moreover, in 2019, 53 inspections decisions were appealed to SLSSI, of which 45 were upheld. There were also 44 judicial processes related to the sanctions imposed on various entities, where the inspection decision was upheld in 23 cases (with an additional 18 cases still ongoing). The Committee also notes that, according to 2019 Annual Report on Inspection Activities, administrative measures (a warning, fine or a suspension of activities) were imposed following 27 per cent of the total inspections carried out. Moreover, a higher percentage of violations were detected

during unscheduled inspections, including in 78.6 per cent of inspections undertaken following accidents, 64 per cent of inspections following indications of flagrant violations and 48 per cent of those following complaints. **Noting with concern the significant decline in the number of fines imposed since 2011, the Committee requests the Government to provide information on the measures it is taking to ensure the application of adequate penalties for violations of the legal provisions enforceable by labour inspectors. The Committee requests the Government to provide information on the reasons for this decline, and to continue to provide detailed information on the number and nature of fines imposed, the outcomes of the judicial appeals of inspection decisions and the percentage of violations detected during unscheduled and scheduled inspections respectively.**

Matters specifically relating to labour inspection in agriculture

Articles 6(1)(a) and (b) and (3), and 19 of Convention No. 129. *Labour inspection activities in agriculture.* The Committee previously noted that the number of inspections in the agricultural sector constituted 0.8 per cent of total inspections, and that nearly half of the workforce in Albania was employed in the agricultural sector.

The Committee notes the Government's indication that in 2019, 284 inspections were carried out in the agriculture, forestry and fishery sector (2.1 per cent of the total inspections carried out), covering 1,519 employees (0.5 per cent of the total number of employees in workplaces inspected). Nineteen administrative measures were imposed, including six suspensions of work (due to violations of legal provisions on employment), nine warnings and one fine. During the first three months of 2020, 67 inspections in agriculture, forestry and fishery (2.6 per cent of the total inspections carried out), covering 450 employees (0.8 per cent of employees in workplaces inspected). Ten administrative measures were imposed, including three suspensions of work, six warnings and one fine. The Government also indicates that there are no specific trainings targeting inspections in the agriculture sector, but the topics of trainings conducted in 2019 will have a direct impact on inspections in all economic sectors. **Noting the continuing low percentage of the inspection visits carried out in agriculture, the Committee once again requests the Government to strengthen its efforts to ensure the enforcement of laws and regulations in agriculture, including with respect to occupational safety and health (OSH), and to continue to provide information on the number of inspections carried out in that sector. The Committee also requests the Government to provide information on measures undertaken or envisaged to ensure that training is provided to labour inspectors on agriculture-related subjects, and on any progress made in this respect.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Bahrain

Labour Inspection Convention, 1947 (No. 81) (ratification: 1981)

Previous comment

The Committee notes the observations of the General Federation of Bahrain Trade Union (GFBTU) received on 31 August 2022.

Article 3(1) and (2) of the Convention. Labour inspection activities concerning the enforcement of the legislation in relation to the employment of foreign workers. The Committee notes the Government's indication that the task of receiving notices by employers about foreign workers who have left their employment is assigned to the Labour Market Regulatory Authority (LMRA), according to the 2006 Labour Market Regulations Act No. 19. The Government indicates that the labour inspection service in the Ministry of Labour and Social Development has no functions or responsibilities in respect of the notices submitted by employers concerning expatriate workers who have left their employment in violation of the terms of the work permit. In this regard, the Government refers to Decision No. 77 of 2008 which provides that an employer is required to notify the LMRA in the event that a foreign worker leaves his employment in violation of the terms of the work permit, so that the work permit granted to

that worker can be cancelled. The Government indicates that the notices concerning the departure of expatriate workers were recorded by the labour inspection system until 2014, but that after that date the LMRA was assigned this task.

The Committee also notes that, according to the Government, in order to protect the rights of the worker in an irregular situation, the existence of an employment relationship must be proven, which is burdensome for foreign workers. The Government adds that workers are afraid to identify themselves to authorities such as labour inspectors. The Government indicates that the labour inspectors do not exempt employers from their responsibilities towards workers in their employment, requiring them to ensure all rights granted to workers by law. ***The Committee requests the Government to provide information on specific measures undertaken by labour inspectors to monitor and enforce the rights of migrant workers found to be in an irregular situation, including the provision of information and advice, in particular where these workers are subject to a deportation or expulsion order. In this regard, the Committee requests the Government to provide information on the number of cases in which foreign workers in an irregular situation have been granted their due rights, including unpaid wages and benefits.***

Articles 10, 11 and 16. Sufficient number of inspectors and effectiveness of the labour inspection system. The Committee notes that, according to the annual report for 2021, there are six labour inspectors for the commerce sector and six labour inspectors for the industry and construction sectors, resulting in a total of 12 inspectors, compared to 45 inspectors in 2011. In its observations the GFBTU indicates that the total number of inspectors is very low in comparison to the number of establishments. In particular, the GFBTU indicates that there are only ten inspectors while there are about 80.000 enterprises in the country, a proportion that highlights the urgent need to increase the number of inspectors to ensure sufficient coverage of all workplaces. Concerning the material means allocated to labour inspectors, the Government indicates that inspectors are provided with administrative offices equipped with modern means of communication and devices and other equipment required to perform their functions. The Committee also notes the Government's indication that labour inspectors receive a communication and travel allowance for the performance of their duties. ***The Committee urges the Government to take the necessary measures so that the number of labour inspectors is sufficient to ensure that workplaces are inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions. The Committee requests the Government to indicate the reasons for the decrease in the number of inspectors and the specific measures taken or envisaged for the recruitment of new labour inspectors.***

Article 17. Effective enforcement of penalties for the violation of labour law provisions. The Committee notes the Government's indication that section 15 of the Ministerial Order No. 29 of 2013 provides that inspection visits must be repeated on a number of occasions before a violation report is issued. The Government indicates that in case of infringements the labour inspectors first issue a warning to the employer with a deadline for compliance of no more than one month from the inspection visit. A follow up inspection is then conducted at the expiration of such deadline and if no progress is recorded, the labour inspectors report the violation. The Government notes that the low number of violation reports issued in comparison to the number of inspections is due to the follow-up work of inspectors and to the corrective measures adopted by employers after the warning.

In this regard, the Committee notes from the Government report that labour inspectors carried out 2.727 inspection visits in 2021, but that only 74 violation reports were issued, and that the number of violations identified has been very low in relation to the number of inspections for several years. The Committee recalls that according to *Article 17(2)* of the Convention, it shall be left to the discretion of labour inspectors to give warning and advice instead of instituting or recommending proceedings, but also that *Article 17(1)* provides for the possibility of prompt legal proceedings with respect to persons who violate or neglect to observe legal provisions enforceable by labour inspectors. ***The Committee requests the Government to take the necessary measures in order to ensure compliance with this***

Article of the Convention. *In that regard, the Committee requests the Government to provide information on the number and type of infringements detected and the measures adopted by labour inspectors, including statistics on the number of warnings and violation reports issued.*

Article 18. Provision of adequate penalties for violations of the legal provisions enforceable by labour inspectors. The Committee notes the Government's indication that the Labour Law in the Private Sector (Law No. 36/2012) provides for penalties for violations of Part Six of the law, concerning wages. The Committee notes that this law does not contain provisions for penalties in case of violations of Part Seven (Hours of Work and Periods of Rest) and Part Eight (Holidays) of the Labour Law. **The Committee requests the Government to take the necessary measures to ensure that adequate penalties are provided for by national laws or regulations in relation to all violations of the legal provisions that are enforceable by labour inspectors.**

The Committee is raising other matters in a request addressed directly to the Government.

Bangladesh

Labour Inspection Convention, 1947 (No. 81) (ratification: 1972)

Previous comment

The Committee notes the observations of the Trade Union's International Labour Standards Committee (TU-ILS Committee), received on 1 September 2022, referring to the matters addressed below. The Committee also notes the reply of the Government to the observations submitted by International Trade Union Confederation (ITUC) in 2021.

The Committee notes that the complaint submitted in 2019 under article 26 of the ILO Constitution, concerning non-observance by the Government of Bangladesh of the Convention as well as of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), is pending before the Governing Body. At its 346th Session (November 2022), taking note of the report submitted by the Government on 9 September 2022 on the progress made with the implementation of the road map of actions, the Governing Body, on the recommendation of its Officers, decided to: (i) request the Government of Bangladesh to report on further progress made in the implementation of the road map of actions to address all the outstanding issues mentioned in the article 26 complaint at its 347th Session (March 2023); and (ii) to defer the decision on further action in respect of the complaint to that session.

The Committee takes note of the additional information provided by the Government on 9 September 2022 on the progress made in the implementation of the road map to address all the outstanding issues mentioned in the article 26 complaint.

Legislative developments. The Committee notes the information provided by the Government in its report concerning the establishment of an 18-member Tripartite Law Review Committee (TLRC) headed by the Additional Secretary (Labour) in March 2022 to work on the labour law reform. A separate 12-member working committee was also formed in July 2022, headed by the Joint Secretary (Labour), to support the Law Review Committee. The Government indicates that these two new committees are tasked to identify the areas in the existing law that need to be reformed in order to bring them in line with international labour standards. The Committee also notes, in the additional information provided concerning the implementation of the first priority area of the road map of actions (labour law reform), that the Bangladesh Labour Rules, 2015 were amended and published through gazette notification on 1 September 2022. Concerning the amendment of the Bangladesh Labour Act, 2006 (as amended in 2018) (BLA), the Committee notes the Government's indication that the proposed revisions received by stakeholders (government, employers and workers organizations) will be compiled and sent to the TLRC by 30 October 2022. Upon completion of the work by the TLRC, the National Tripartite Consultative

Council (NTCC) will be in a position to take up the issue of the amendments of the BLA. The Committee also notes the adoption of the Export Processing Zone (EPZ) Labour Rules in October 2022. The Committee also notes the observation from the TU-ILS Committee which indicates that the TLRC has been recently reformed, but that the legislative reform process is not advancing at the expected speed. ***The Committee requests the Government to continue to provide detailed information on the progress made in the legislative reform process and on the measures adopted in order to ensure that such process takes into account the outstanding issues concerning the application of the Convention raised by the Committee.***

Articles 2, 4, 12 and 23 of the Convention. Labour inspection in EPZs and special economic zones (SEZs). The Committee notes that in reply to its previous request the Government indicates that pursuant to the preamble and section 3(A), 4(d), 7(k) and 5A(2) of the Bangladesh Export Processing Zone Authority (BEPZA) Act, 1980, the BEPZA is the only appropriate authority of the Government for development, operation, management and control of the EPZs. The Government indicates that the BEPZA has been successfully performing its duties and responsibilities of administration and inspection in EPZs for the last four decades. The Government indicates that nevertheless it has adopted measures in order to ensure the operation of the Department of Inspection for Factories and Establishments (DIFE) in the EPZs, namely: (i) modalities of DIFE inspections in the EPZs have been incorporated in the amended EPZ Labour Rules; (ii) an EPZ inspection checklist has been prepared and shared with DIFE on 1 December 2021; (iii) on 16 May 2022, a meeting was held between the BEPZA and DIFE under the chair of the Minister of Law, Justice and Parliamentary Affairs regarding a transparent and accountable mechanism of inspections; and (iv) as of August 2022, the DIFE inspected 25 factories in EPZs and found overall compliances of the factories inspected.

The Committee also notes that the TU-ILS Committee indicates in its observations that there has been no noticeable impact from the development of the EPZ inspection checklist. The TU-ILS Committee adds that pursuant to section 168 of the EPZ Labour Act, the DIFE is only empowered to carry out announced inspections in the EPZs, after the approval of the Executive Chairman of the BEPZA. The trade unions indicate that the legislation should be amended in order to ensure that DIFE is in charge of inspections in the EPZs and that, until then, reports on the inspection of factories within the EPZ area on safety issues should be submitted to the DIFE by BEPZA on a monthly basis.

The Committee notes with **concern** that, according to section 289 of the EPZ Labour Rules of 2022, the Executive Chairman of the BEPZA remains the authority responsible for inspections in the EPZs. While the Committee also notes that, according to section 290, the inspectors of the DIFE may inspect any industry of any zone established within their jurisdiction by giving an intimation to the Executive Chairman, the rules provide that inspection shall be carried out in accordance with the checklist prepared by the authority. ***The Committee requests the Government to take the necessary measures to ensure that labour inspectors are empowered to enter freely establishments in EPZs and SEZs without any restrictions. The Committee requests the Government to indicate whether, under the EPZ Labour Rules 2022, DIFE inspectors are required to receive approval from the Executive Chairman prior to the inspection of EPZs, as foreseen in section 168 of the EPZ Labour Act. If such approval is necessary, the Committee requests that the Government provide information on the number of requests made, the number of requests approved, the time elapsed between each request and approval, and any reasons given for each failure to approve. It also requests the Government to provide copy of the EPZ inspection checklist and to indicate its impact on EPZ inspections, including whether labour inspectors are free to carry out any examination, test or enquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed. Further, the Committee requests the Government to indicate the progress made, in the context of the labour law reform mentioned above, in the amendment of section 168 of the EPZ Labour Act. Noting the information on the number of factory inspections undertaken by the DIFE in the EPZs, the Committee requests the Government to provide further details on the numbers of labour inspections undertaken in EPZs and***

SEZs that are in operation, disaggregated into inspections by the DIFE and inspections under the BEPZA, including whether the inspections were announced or unannounced, whether in response to a complaint or to an accident, and the number and nature of all violations detected and the measures taken as a result.

Articles 5(b) and 15(a). Cooperation with employers and workers. Impartiality of labour inspectors. The Committee notes that the TU-ILS Committee refers in its observation to allegations of corruption and undue pressure on DIFE inspectors in the performance of their duties. The trade unions indicate that labour inspectors are politically influenced or induced for various reasons to overlook safety and law enforcement issues. The trade unions refer in particular to the 2021 fire incident in the Hashem Food Factory where several workers died. According to the TU-ILS Committee, an inspection carried out two weeks before the incident considered the factory in compliance with safety rules. However, according to the trade unions, an investigation after the incident indicated a lack of fire safety measures. According to the trade unions, there is a lack of accountability in the inspection system and there are no penalties or departmental actions applied to labour inspectors when they fail to perform their duties. The trade unions also indicate that while inspections should be unannounced according to the law, there are times when an informal relationship is established between the factory management and the inspectors and, as a result, the establishment receives advanced notice of the inspection. The TU-ILS Committee also indicates that there is limited engagement of workers in the inspection process, noting that the quality of inspections should be ensured through tripartite accountability mechanisms established at the central, territorial and enterprise level. **The Committee requests the Government to provide its comments in respect of these trade unions observations.**

Article 6. Status and conditions of service of labour inspectors. The Committee notes that in reply to its previous comment, the Government provides the structure of the current workforce of the DIFE with the indication of the number of positions filled and vacant at each grade. The Committee notes the Government's indication that inspectors normally enter into service at the 10th grade as labour inspector and at the 9th grade as assistant inspector general and that with satisfactory performance inspectors can be promoted to higher level. Concerning the condition of service of labour inspectors, the Committee notes the Government's indication that labour inspectors are appointed to permanent positions, and that the remuneration and employment tenure are similar to those of tax collectors and the police. **The Committee requests the Government to continue to provide information on the structure of the DIFE workforce, including the number of officers appointed at each grade. Noting the absence of information on this point, the Committee requests the Government to indicate the number and grade of labour inspectors that left the DIFE. The Committee reiterates its request for detailed information comparing the remuneration and employment tenures of labour inspectors to those of tax collectors and the police.**

Articles 5, 7, 10, 11 and 16. Human and material resources of the labour inspectorate. Frequency and thoroughness of labour inspections. Cooperation with employers and workers organizations. The Committee notes that in reply to its previous comment concerning the staffing of the DIFE, the Government indicates that, as of 30 June 2022, out of the 575 sanctioned posts, 366 are filled (313 in 2020) while 209 remain vacant. The Government also indicates that police and medical checks for additional 54 new recruits are ongoing and that a request will be submitted to the Ministry of Labour and Employment (MoLE) for the recruitment of another 46 inspectors. The Committee notes the Government's indication that in 2022, the MoLE issued the final order for creation of an additional 136 posts of labour inspectors, and for the creation of eight new field offices. Concerning promotions, the Government states that 11 existing staff of DIFE were promoted to the post of labour inspectors general and that the gradations for the posts of deputy inspectors general and assistant inspectors general are underway. Finally, the Government indicates that a new organogram with 1,791 posts (currently 993 posts), of which 942 are for inspectors, was sent to the Ministry of Public Administration (MoPA) for approval and it is currently under consideration. The Committee notes that according to the TU-ILS Committee, there is a lack of

inspectors to cover all the factories in the country. Concerning the number of inspection visits, the Committee notes the Government's indication on the number of inspections conducted by the DIFE in the first seven months of 2022, disaggregated by sector. ***The Committee requests the Government to continue to provide information on the progress made in the recruitment and promotion of inspectors, as well as on the approval of the organigram of the DIFE. It also requests the Government to continue to provide information on the number of inspections undertaken by the DIFE, disaggregated by sector of economic activity.***

Concerning the material resources available to the DIFE, the Committee notes the Government's indication that labour inspectors have at their disposal five cars (previously one), three jeeps, 27 minibuses, 292 laptops and 339 desktop computers. The Committee notes that the 425 Android tablets, reported as available to labour inspectors in the previous Government report, are not listed in the material resources at the disposal of the DIFE. ***The Committee requests the Government to continue to provide information on the material resources of the DIFE, including any IT equipment available to the inspectors during inspection visits and how these material resources are distributed across different offices. The Committee also request the Government to provide information on the annual budget allocated to the DIFE.***

Articles 12(1) and 15(c). Inspections without previous notice. Duty of confidentiality in relation to complaints. The Committee notes that in reply to its previous comment, the Government states that: (i) according to the BLA, 2006 and the standard operating procedure (SOP) issued on the basis of the Act, inspectors are entitled to perform announced and unannounced visits; (ii) for special cases such as those involving child labour, complaints investigation, probabilities of hiding evidences etc, an unannounced visit is conducted; (iii) inspectors prefer to conduct unannounced inspections to check if there are concealed issues but that, in cases where a prior document is required, the visit would be announced; (iv) the labour inspector has the discretion to decide whether to conduct announced or unannounced visits. The Government also provides the number of announced (959) and unannounced inspections (4,855) conducted in 2021-2022, collected through the Labour Inspection Management Application (LIMA). In this respect, the Committee notes that the total number of inspections for 2021-22 collected through the LIMA and offline (43,644) is significantly higher than the total announced and unannounced inspections for the same period. Furthermore, the Committee notes that according to the SOP on Labour Inspection, regular inspections will usually be announced unless that is inconvenient for the performance of the duties of the inspectors. The SOP also provides that a minimum of 50 per cent regular visits should be announced, while special inspections (such as complaint investigation, accident investigation, etc.) are usually unannounced unless the announcement of the visit is necessary, for instance for ensuring the presence of witnesses. The Committee recalls once again the importance of undertaking a sufficient number of inspections that are unannounced to ensure that when inspections are conducted as a result of a complaint without prior notice, the fact of the complaint is kept confidential.

Concerning the confidentiality of complaints, the Committee notes the observation of the TU-ILS Committee indicating that: (i) the hotline provides an opportunity to file a complaint anonymously but sometimes it does not work; (ii) there is no information provided by the DIFE regarding the anonymity of the complaints and therefore workers are not aware that they can file a complaint without fear of retaliation; (iii) currently, an ID card is required to submit a complaint and DIFE should set up complaint boxes in factories to be inspected during inspection (out of the range of CCTV); (iv) there should be sanctions provided in the law for the disclosure of the details of a complaint by DIFE officials. The Committee also takes note of the Government's indication that the modalities to ensure confidentiality are provided in the relevant SOP. Moreover, the Committee notes that in the additional information provided by the Government concerning the implementation of the third priority area of the road map of actions (labour inspection and enforcement), the Government states that (i) the helpline activated in June 2020 continues to operate and to receive complaints that are now managed through a database;

(ii) the officials dealing with the helpline are being trained regularly; (iii) the complaint management cell, established at the DIFE in December 2020, was reorganized in January 2022 and consists of eight labour inspectors tasked to monitor the complaints received and addressed, update the number of complaints received and resolved, and arrange training for labour inspectors.

The Committee requests the Government to provide its comments to the observations of the trade unions. The Committee also requests the Government to continue to provide information on the number of announced and unannounced inspections conducted by the DIFE and to indicate the number of inspections conducted as a result of a complaint, and the outcome of all such inspections. With reference to the discrepancy noted between the total of announced and unannounced inspections and the total number of visits for the same period, the Committee requests the Government to provide more detailed information on the types of inspections conducted, including whether they were announced or unannounced.

Articles 17 and 18. Legal proceedings. Effectively enforced and sufficiently dissuasive penalties. The Committee previously noted that (i) the legal unit of the DIFE counts one officer and (ii) the Government planned to expand it to nine officers. The Committee notes the Government's indication that in August 2022 one additional post of legal officer was approved. The Government also indicates that, in order to improve the proceedings for the enforcement of legal provisions, two foundation training courses for 60 inspectors were completed in the financial year 2021–22. These courses trained labour inspectors on the main provisions of the BLA, 2006 and Bangladesh Labour Rules, 2015. Concerning the measures introduced or envisaged to ensure that penalties for labour law violations are sufficiently dissuasive, the Committee notes the Government's indication that there was an increase in the fines for the protection of women workers deprived of maternal welfare benefits and an increase in the amount of compensation in case of death or disability of workers following an occupational accident. In this regard, the Committee notes that, in their observation, the TU-ILS Committee indicates that penalties should be revised in consultation with trade unions. In addition, according to the trade unions, in cases of wage arrears, the existing 25 per cent interest for delayed payment is insufficient and should be increased to ensure effective deterrence. Concerning violations, the Government provides the numbers of cases filed and resolved for the period 2021–2022, including the number of cases of child labour identified. The Committee also notes that, in their observation, the trade unions indicate that labour justice in Bangladesh is long and cumbersome and that therefore it is discouraging for workers to file a complaint. The trade unions also indicate that there is a need to strengthen the enforcement process of labour courts decisions and that both the Department of Labour and the DIFE should be involved in the implementation of labour court judgments. ***The Committee requests the Government to continue to provide information on the progresses made in the established of a fully operational legal unit in the DIFE. Noting the observation from the trade unions and the limited progress reported by the Government on this matter, the Committee requests the Government to pursue its efforts to ensure that penalties for labour law violations are sufficiently dissuasive. Noting the absence of information in this respect, the Committee once again requests that the Government indicate the specific outcome of cases that are referred to the labour courts (such as the imposition of fines, the amounts collected from fines imposed, and also sentences of imprisonment) and to specify the legal provisions to which they relate. Finally, the Committee requests the Government to continue to provide up-to-date information on the number and nature of violations detected.***

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2023.]

Bulgaria

Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)

Previous comment

Article 3(1) and (2) of the Convention. Additional functions entrusted to labour inspectors. The Committee notes that in the report on the activities of the General Labour Inspectorate Executive Agency (GLIEA) in 2021, 288 inspections were carried out which aimed at establishing compliance with the legal requirements for employment of foreigners in the country. It also indicates that 375 violations were found (they were 66 in 2015, 123 in 2016, and 272 in 2017), of which 122 for providing labour without the corresponding permit or registration with the Employment Agency; 105 for not notifying the GLIEA of the date of commencement of the employment relation with a foreign worker; ten for hiring foreigners illegally staying in the country; eight for employment of foreign workers who do not have the right to access the labour market in the Republic of Bulgaria. The Government notes an increasing trend of foreigners working without a work permit or without registering their employment with the Employment Agency. The Government indicates that an important way to limit these violations is a close cooperation between GLIEA and the Employment Agency. The Government adds that it is unable, for technical reasons, to provide data on the number of applied criminal penalties for violations concerning the employment of foreign workers in an irregular situation, as well as for cases concerning migrant workers in an irregular situation who received their delayed wages. The Committee recalls that the enforcement of provisions regarding foreign workers that are illegally in the country does not fall within the primary functions of the labour inspectors under *Article 3(1)* of the Convention. ***Noting the absence of sufficient information in this regard and the indication of the Government concerning an increasing trend of foreigners working without a work permit or without registering their employment, the Committee requests the Government to indicate if the GLIEA continues to undertake joint inspection activities with the authorities in charge of national security. The Committee also requests the Government to continue to provide information on the number of foreign workers in an irregular situation detected by labour inspectors and to indicate the role of labour inspectors in informing migrant workers about their labour rights and in enforcing those rights, including improved data on the recovery of wage and social security credits specific to foreign workers without a residence permit.***

The Committee is raising other matters in a request addressed directly to the Government.

Central African Republic

Labour Inspection Convention, 1947 (No. 81) (ratification: 1964)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 3(2) of the Convention. Duties of labour inspectors. In its previous comments, the Committee noted that a third of labour inspectors had supervisory duties and that, under the Labour Code, labour inspectors were responsible for the conciliation of collective and individual labour disputes. It asked the Government to provide an estimate of the time spent on the primary functions as set out in *Article 3(1)* of the Convention as compared to the other functions of the labour inspectorate. In this regard, the Committee observes that, according to the technical memorandum on the National Strategy for the Development and Modernization of the Labour Administration System of the Central African Republic, prepared in 2017 with the support of the ILO and attached to the Government report, the conciliation of individual and collective labour disputes constitutes the majority of inspectors' work. The Committee also notes that, under the Labour Code, inspectors are assigned other duties relating to the exercise of freedom of association and collective bargaining (such as registering trade unions, supervising elections of staff representatives, facilitating the conclusion of collective labour agreements and receiving advance notice of strikes and lockouts). ***The Committee requests the Government to provide information on the measures taken or envisaged to ensure***

that any additional duties assigned to labour inspectors do not interfere with the exercise of their primary duties. It further requests the Government to provide information on the steps taken in this regard and on the time and resources spent by labour inspectors on their various duties.

Articles 11 and 16. Material means and transport facilities placed at the disposal of labour inspectors and reimbursement of necessary expenses. Frequency of inspection visits and effectiveness of the system. In its previous comments, the Committee noted: (a) the persistent lack of material means placed at the disposal of the labour inspection services, including for offices and transport facilities, as well as for the reimbursement of necessary expenses; and (b) the infrequency of inspection visits. The Committee notes in this regard the information provided by the Government in its report on its efforts in 2017 to provide every Regional Directorate of Labour with a motorbike. The Government points out that the prefectural services sometimes rely on employers to provide them with transportation and that the recently created prefectural services do not have their own facilities. The Committee also notes the information provided in the 2013 partial activity report of the Ministry of Labour, Employment, Vocational Training and Social Security, according to which various types of difficulties have hindered the effective realization of the objectives pursued by the General Directorate of Labour and Social Welfare, such as security problems and the plundering of the Directorate. The Committee also notes the Government's indication that the political and military difficulties that arose in 2012 continue to have a negative impact on several reform projects under way. **While taking due note of the difficult situation in the country, the Committee requests the Government to continue its efforts to address the difficulties identified and to guarantee the effectiveness of the system, including by taking the necessary measures to provide labour inspectors with the means necessary for the effective performance of their duties. Recalling that the provision of transport facilities by employers may pose problems relating to the principles of impartiality and independence of labour inspectors, the Committee also requests the Government to continue its efforts to furnish labour inspectors with the transport facilities necessary for the performance of their duties, in accordance with Article 11(b) of the Convention.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

China

Macau Special Administrative Region

Labour Inspection Convention, 1947 (No. 81) (notification: 1999)

Previous comment

Article 3(1) and (2) of the Convention. Cooperation with the police in combating illegal work. In its previous comments, the Committee noted that inspection staff of the Labour Affairs Bureau (DSAL) continued to assist in joint operations with the police to combat illegal work by checking the papers of employed persons or by acting as eyewitnesses.

The Government once again states that the involvement of the inspection staff in these operations does not interfere with the performance of their duties to ensure the protection of the rights of workers. It indicates that when the DSAL receives a worker's complaint alleging a labour right violation and requiring assistance, even if the worker concerned does not have a proper work permit, the DSAL will in any case initiate an investigation and request the employer to pay the wage or compensation due to the de facto labour relationship. If the employer does not pay the amount due as requested, the case will be notified to the prosecutor. The Government also indicates in its report that, from 2014 to 2021, there are some cases transferred to the judicial authority involving irregular workers, namely two cases concerning wage arrears, one concerning medical expenses and compensation for work accident and two concerning death compensation due to work accident. The Government further clarifies that the offence of "illegal employment" committed by the employer under section 16 of Law No. 6/2004 on Illegal Entry, Illegal Stay and Deportation is a crime and is administered by the Special Administrative

Region Government Security Police. On the other hand, irregular work is an administrative violation punishable for both workers and employers and regulated by the Law No. 21/2009 on the Employment of Foreign Employees and the Administrative Regulation No. 17/2004 on the Prohibition of Irregular Work. The DSAL imposes penalties on the offenders according to the law, so there is no case of irregular worker transferred to the judicial authority.

The Committee notes, however, that according to the 2021 annual inspection reports, 453 inspection visits were carried out relating to the implementation of the Law No. 21/2009 on the Employment of Foreign Employees and the Administrative Regulation No. 17/2004 on the Prohibition of Illegal Work, in addition to 40 joint inspection visits together with other authorities. Fines of 6,487,500 Macanese pataca (approximately US\$787,280) were imposed, involving 320 employers, as well as 117 workers without work permits, 103 non-residents performing lucrative activities and 61 migrant workers carrying out work outside permitted scope.

In this regard, the Committee once again emphasizes that workers in a vulnerable situation may not be willing to cooperate with the labour inspection services or report any labour rights' violation if they fear negative consequences, such as being fined, losing their job or being expelled from the country. ***The Committee once again urges the Government to take the necessary measures to ensure that any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties, that is to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work. The Committee also requests that the Government continue to provide statistical information on the inspection visits carried out relating to the enforcement of Law No. 21/2009 on the Employment of Foreign Employees and the Administrative Regulation No. 17/2004 on the Prohibition of Illegal Work, as well as the number of workers subjected to any sanctions and the number of fines imposed. It further requests the Government to provide information on the enforcement of outstanding rights of undocumented migrant workers (including outstanding wages and other benefits deriving from their employment relationship).***

The Committee is raising other matters in a request addressed directly to the Government.

Colombia

Labour Inspection Convention, 1947 (No. 81) (ratification: 1967)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1976)

Previous comments on Convention No. 81: [observation](#) and [direct request](#)

Previous comments on Convention No. 129: [observation](#) and [direct request](#)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee notes the observations of the Single Confederation of Workers of Colombia (CUT) and the Confederation of Workers of Colombia (CTC), received on 1 September 2018, as well as the joint observations of the CUT, CTC and the General Confederation of Labour (CGT), communicated with the Government's reports, on the application of Conventions Nos 81 and 129. The Committee also notes the joint observations from the International Organisation of Employers (IOE) and the National Association of Employers of Colombia (ANDI), received on 31 August 2018, the observations of the IOE, received on 31 August 2022, and the observations of the ANDI, communicated with the Government's reports, on the application of Conventions Nos 81 and 129. In addition, the Committee takes note of the

Government's comments, received on 16 November 2018, relating to the observations of the CUT, CTC, IOE and ANDI of 2018.

Further to its previous comments, the Committee notes the Government's comments on the previous observations of the CTC, CGT, CUT, IOE and ANDI, received in 2015, on the application of Conventions Nos 81 and 129.

Articles 3(1), 9, 13, 14, 20 and 21 of Convention No. 81 and Articles 6(1), 11, 18, 19, 26 and 27 of Convention No. 129. Labour inspection functions in the area of occupational safety and health (OSH). Industrial accidents and cases of occupational disease. The Committee notes the Government's indication in its reports that, pursuant to Decisions No. 3029 and 3233 of 2022, internal working groups on occupational risks inspection were established in various territorial directorates and special offices in order to strengthen inspection in this domain. The Committee notes that, according to the aforementioned decisions, each group must include at least four officials, including a coordinator who must hold a valid licence for the design, administration and implementation of OSH management systems, as well as having had the necessary training in this regard. Furthermore, the Committee notes that the functions of each group include monitoring and supervising the application of OSH standards and ordering the immediate cessation of work in the event of failure to comply with the rules on the prevention of occupational hazards if there is a serious and imminent danger to the safety or health of the workers, until the failure is resolved. In respect of the latter function, the Committee recalls that *Article 13(2)(b) of Convention No. 81 and Article 18(2)(b) of Convention No. 129* empower labour inspectors to adopt measures with immediate executory force, which may go as far as halting work, in the event of imminent danger to health or safety, without requiring the danger to be serious. **Accordingly, the Committee requests the Government to take the necessary steps to amend Decisions Nos 3029 and 3233 of 2022 in order to ensure that they are consistent with these provisions of the Conventions.**

In addition, the Committee requests the Government to describe the composition of the internal working group on occupational risks inspection, and to specify whether the inspectors in that group perform only the functions assigned to it.

The Committee also requests the Government to provide information on the application in practice of the aforementioned decisions. In particular, the Committee requests the Government to provide statistical information on the preventive measures taken by inspectors: (i) in order to eliminate defects in workplaces (including in connection with the use of hazardous materials and substances in agriculture) which they may have reasonable cause to believe constitute a danger to the health or safety of workers (Article 13(1) of Convention No. 81 and Article 18(1) of Convention No. 129); (ii) to make or cause to make orders that such alterations to the installation, plant, premises, tools, equipment or machines are carried out, within a specified time limit, as may be necessary to ensure compliance with the legal provisions relating to health or safety (Article 13(2)(a) of Convention No. 81 and Article 18(2)(a) of Convention No. 129); and (iii) to make or have made orders requiring measures with immediate executory force, which can go as far as halting the work, in the event of imminent danger to the health or safety of workers (Article 13(2)(b) of Convention No. 81 and Article 18(2)(b) of Convention No. 129).

Noting that the CGT refers, in its observations, to a high rate of accidents in the mining sector and that the quarterly bulletins on inspection, monitoring and control do not contain relevant information, the Committee requests the Government to provide annual statistics, disaggregated by sector, on occupational accidents, including their causes, as well as on occupational diseases, including their causes.

Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. Additional functions of labour inspectors. The Committee notes that the Government indicates that by Decision No. 3445 of 2021, the Ministry of Labour, territorial directorates, special offices and labour inspectorates were assigned new responsibilities with regard to inspections, as well as conciliation and assistance to citizens. The

Government also refers to Decision No. 1043 of 2022 which details the remit of assistance to citizens. The Committee notes that these decisions provide for the establishment of different internal working groups for inspection, conciliation and/or assistance to citizens in various units of the Ministry of Labour.

With regard to its previous comments on assistance to citizen services, the Committee notes the Government's indication that such services: (i) are concentrated in the aforementioned assistance to citizen groups of territorial directorates and special offices; (ii) seek to supply technical information and advice to employers and workers on the most effective means of compliance with the legal provisions; and (iii) also include the issuance of authorizations, approvals and certificates and the administration of registrations and deposits provided for in the relevant legislation.

Further to its previous comments on conciliation functions, the Committee notes the Government's indication that these functions: (i) do not affect labour inspectors' activities relating to the management of inspections, monitoring and control of labour standards; and (ii) can be carried out not only by inspectors but also by regional and local representatives of the Office of the Ombudsperson, agents of the Public Prosecutor's Office dealing with labour issues (procurators delegated to labour courts) and, failing all of the above, by civil or mixed municipal judges, pursuant to section 28 of Law No. 640 of 2001.

The Committee notes that, in their observations, the CTC, CUT and CGT mention: (i) that labour inspectors are not performing their advisory function on labour matters sufficiently; and (ii) that they could be performing their conciliation function by reducing their preventive, investigative, disciplinary and advisory function. The Committee notes that the Government finds the position of workers' organizations in respect of the first question difficult to understand and acknowledges that they have previously indicated that they disagree with the assistance to citizen service functions entrusted to inspectors.

Lastly, the Committee notes that, according to the statistics contained in the quarterly bulletins on inspection, monitoring and control, in 2021 the labour inspectorate dealt with a total of 17,080 conciliations and 96,764 consultations in the context of assistance to citizens.

The Committee requests the Government to take the necessary steps to ensure that labour inspectors are primarily responsible for securing compliance with the legal provisions relating to conditions of work and the protection of workers while engaged in their work, and, therefore, to consider entrusting the functions of conciliation and assistance to citizens (with the exception of those aimed at supplying technical information and advice to employers and workers on the most effective means of complying with the legal provisions) to other units authorized in this regard. The Committee requests the Government to provide information on these measures.

With reference to Decisions Nos 3445 and 1043 adopted in 2021 and 2022, respectively, the Committee requests the Government to describe the composition of the internal inspection, conciliation and assistance to citizen groups, indicate the precise number of labour inspectors and other officials involved in these groups, and specify whether the inspectors involved perform only the functions assigned to the group to which they are attached. The Committee also requests the Government to provide detailed information on the time and resources allocated by inspectors to assistance to citizens and allocated to conciliation activities, and on the combined amount of such time and resources as a percentage of the time and resources allocated by inspectors to the discharge of their primary functions, as envisaged under Article 3(1) of Convention No. 81 and Article 6(1) of Convention No. 129.

Articles 10 and 16 of Convention No. 81 and Articles 14 and 21 of Convention No. 129. Number of labour inspectors. Frequency of inspections. Further to its previous comments on the filling of vacant labour inspector posts and the assignment of inspectors to regions outside the capital, the Committee notes the Government's indication that: (i) in 2016, a competition was held to fill vacant posts in the public administration career system permanently, including labour inspector posts; (ii) there were

904 inspector posts in 2018 and 355 new posts were created in 2021; and (iii) there were 866 active inspectors in 2019 and 816 in 2021, specifying their geographical distribution at the national level (117 inspectors in the territorial directorate of Bogota D.C. and the remainder in other directorates and special offices). The Committee notes that the Government does not provide updated information on the number of existing labour inspector posts or on the number that remain vacant.

In addition, in response to its previous comments on the number of inspections undertaken, including the decrease in that number in previous years, the Committee notes the Government's indication that: (i) between 2011 and 2014, the total number of inspections carried out decreased both because the activities of the labour inspectorate focused on critical sectors of the economy (specifically, on mining, ports, flower growing, palm growing and sugar) and on detecting situations of unwarranted use of labour intermediation and also because additional formalities were introduced to the legislation on administrative procedure regulating these activities in 2012 and the procedure therefore takes longer to complete; and (ii) the number of inspections was 7,289 in 2015, 6,351 in 2016, 5,445 in 2017 and 762 in the first quarter of 2018. The Committee notes that the Government does not provide information on the number of inspections carried out subsequent to the latter date nor does it indicate the number of inspections that took place in agricultural enterprises.

Furthermore, the Committee notes that, in their observations, the CTC, CUT and CGT consider the number of labour inspectors to be insufficient and, in addition, indicate that the 355 new labour inspector positions are currently vacant. The Committee notes the Government's indication, in this regard, that the number of inspectors has been gradually increasing in recent years, which has resulted in their greater presence throughout the country, and that although the number of posts should remain under constant review, any adjustment must be made in accordance with the relevant technical and budgetary considerations.

The Committee requests the Government to adopt the necessary measures to ensure that the number of labour inspectors is sufficient to guarantee that establishments are inspected as often and as thoroughly as necessary in order to ensure the effective application of the relevant legal provisions.

The Committee also requests the Government to provide updated information on: (i) the number of labour inspector posts, specifying how many are currently occupied by active inspectors and their geographical distribution, as well as any measures taken or envisaged to fill the vacant posts; and (ii) the number of inspections carried out annually, disaggregated by sector.

Articles 11(1)(b), (2) and 15(a) of Convention No. 81 and Articles 15(1)(b), (2) and 20(a) of Convention No. 129. *Transport facilities. Principle of the independence and impartiality of labour inspectors.* Further to its previous comments, the Committee notes the Government's indication that: (i) the Constitutional Court declared inadmissible a constitutional claim filed in 2015 by the Ministry of Labour in respect of section 3(2) of Law No. 1610 of 2013, which allows labour inspectors to seek logistical assistance from employers or workers, where conditions on the ground so require, in order to access workplaces liable to inspection; (ii) the Ministry of Labour gave instructions to inspectors to refrain from applying the aforementioned provision until the matter was properly resolved; (iii) inspectors travel in vehicles supplied by the Ministry of Labour in order to provide their services in rural areas; and (iv) labour inspectors are entitled to reimbursement of the full cost of transport and the transport expenses that they incur in accordance with Circular No. 12 of 2018, which reorganized the distribution of the budget of territorial directorates with a view to ensuring that inspectors have all necessary financial resources to discharge their functions.

The Committee notes that, in their observations, the CTC, CUT and CGT: (i) indicate that labour inspectors are not independent with regard to transport, since the necessary resources may be provided by trade unions or by employers; (ii) note that because Colombia has inaccessible rural areas, many of which are war-torn, inspections are difficult when inspectors do not have reliable access to vehicles or security measures; (iii) consider that the Government should provide information on the

vehicles, among other resources, available to inspectors, in order to determine if they are sufficient. The Committee further notes that under the Public Policy for the prevention, inspection, monitoring and control of labour 2020–2030, it is envisaged that each region will carry out a transport study so that the minimum costs associated with the performance of labour inspection functions, including inspections, can be established in order to assign an appropriate budget.

The Committee urges the Government, in the interest of legal certainty, to consider amending section 3(2) of Law No. 1610 of 2013, with a view to excluding the possibility of labour inspectors seeking logistical assistance from employers or workers in order to gain access to workplaces liable to inspection. The Committee also requests the Government to indicate whether, in practice, inspectors are in fact disregarding the aforementioned provision, and to provide information on the percentage of inspection visits carried out using transport facilities provided by employers or workers. Furthermore, the Committee requests the Government to provide information on any study conducted relating to transport for inspectors, the findings and the actions taken or envisaged in this regard. In addition, the Committee requests the Government to provide information on any measures adopted or envisaged to ensure the safety of inspectors performing functions in regions where law and order could pose a problem.

Lastly, the Committee once again requests the Government to provide information on progress made with regard to the purchase of vehicles for labour inspection services and to describe the availability of means of transport in the different territorial labour inspection services.

Articles 17 and 18 of Convention No. 81 and Articles 22 and 24 of Convention No. 129. Adequate and effectively enforced penalties. Discretion to give a warning or advice. 1. Fines imposed and collected. Further to its previous comments on the body responsible for the collection of fines, the Committee notes that, according to the information provided by the Government, fines imposed by the labour inspectorate prior to 1 January 2020 continue to be collected by the National Apprenticeship Service (SENA) and incorporated in its budget, and fines imposed from that date are collected by the debt enforcement group of the legal advisory office of the Ministry of Labour and allocated to the Labour and Social Security Inspection, Monitoring and Control Strengthening Fund (FIVICOT), established in 2019 under section 201 of Law No. 1955 of 2019 (approving the National Development Plan 2018–2022), as a special State account, without legal personality, attached to the aforementioned Ministry. FIVICOT resources will be used to strengthen labour and social security inspection, monitoring and control functions.

Further to its previous comments on progress made in the effective collection of fines imposed, the Committee notes the Government's indication concerning activities carried out between 2015 and 2018 to improve the collection of fines allocated to the SENA, including the use of precautionary measures in collection procedures, the submission by the SENA of monthly reports to the Ministry of Labour on the management of fine collection at the national level and the introduction of a process linking the Ministry of Labour's Inspection, Monitoring and Control System (SISINFO) and the SENA's Information, Collection, Budget and Recovery System (SIREC), which will allow enforced penalties to be transferred directly to the SENA.

In their observations, the CTC and CUT indicate that there are consistently more unenforced than enforced penalties, that there are delays in the resolution of administrative sanctioning proceedings, that the Ministry of Labour forwards the decisions handed down in these proceedings to the SENA with unjustified delay and that the effectiveness of the SENA in the collection of fines is low. The Government indicates in this regard that: (i) unenforced penalties are not payable pending appeals against them, but will be collected once the appeals are resolved and the penalties become final; (ii) in order to comply with the terms of the resolution procedures for which the labour inspectorate has responsibility, these procedures have been clearly defined, a manual on the functions and competencies of inspectors was adopted in 2018, and inspectors have received training on compliance with the procedural terms; and

(iii) the effectiveness of the SENA with regard to the collection of fines increased from 32 per cent in 2013 and 56 per cent in 2015 to 77 per cent in 2017.

Further to its previous comments on statistics relating to violations detected, penalties imposed and the collection of penalties, the Committee notes the information provided by the Government for the period 2018–2021 in connection with: (i) the number of administrative investigations launched by the labour inspectorate; (3,056 in 2018, 2,584 in 2019, 1,376 in 2020 and 2,006 in 2021); (ii) the number of penalties (enforced and unenforced) imposed in all economic sectors (3,334 in 2018, 3,341 in 2019, 1,639 in 2020 and 3,432 in 2021), including in the agricultural sector (94 in 2018, 107 in 2019, 49 in 2020 and 135 in 2021), with disaggregated information on sugar cane, palm and flower industries; (iii) the total value of the aforementioned fines (124,458,958,537 Colombian pesos (COP) in 2018 and COP67,071,024,937 in 2021), including in the agricultural sector (COP5,305,600,134 in 2018 and COP2,210,211,035 in 2021), as well as with disaggregated information on the aforementioned industries; and (iv) the amount of the fines collected (COP15,157,812,093 in 2018 – collected by the SENA – and a total of COP6,561,296,813 in 2021 – collected by the SENA for FIVICOT). The Committee notes that the Government has not provided the statistics requested on either the number or the nature of the violations giving rise to all of the penalties imposed.

Furthermore, on the basis of the above information, the Committee notes that during the period 2018–21, while the total number of penalties increased in 2021 (after having decreased between 2018 and 2020 by approximately 50 per cent), the number of administrative investigations launched decreased by approximately 34 per cent, the amount of fines imposed decreased by approximately 45 per cent, and the amount of fines collected decreased by approximately 55 per cent; and that the proportion of fines collected to fines imposed was approximately 12 per cent in 2018 and approximately 10 per cent in 2021. In this respect, the Committee notes the indication in Chapter 3 of *OECD Reviews of Labour Market and Social Policies: Colombia 2022* that the decrease in sanctioning procedures and the consequent reduction in the number of penalties imposed by the labour inspectorate are the result of its shift in focus from reactive to preventive visits, which currently account for roughly 80 per cent of all inspections. **The Committee requests the Government to provide detailed information on the reasons for the decrease in the number of administrative investigations launched, and the numbers and amounts of penalties imposed, as well as information on the low proportion of fines collected in relation to fines imposed.**

The Committee also requests the Government to provide updated information on the number and nature of violations detected, as well as on the penalties imposed and the matters concerned, including the size of the fines applied and collected, disaggregated by sector. Furthermore, the Committee requests the Government to continue providing information on the steps taken in order to improve the effective collection of fines, both with regard to the SENA and FIVICOT, including information on the state of progress of the interlinkage between SISINFO and SIREC and its impact on the collection of fines.

2. *Discretion of labour inspectors to give warning or advice.* The Committee notes that the Government reports the adoption of Decision No. 772 of 2021, which establishes guidelines for the exercise of the preventive function in the form of prior notice, with a view to further developing this function entrusted to labour inspectors under section 3(1) of Law No. 1610 of 2013. The Committee notes that, according to the information provided by the Government, this preventive function: (i) requires inspectors to carry out more information and awareness-raising work in relation to workers and employers; (ii) empowers inspectors to take steps to ensure compliance with workers' rights and avoid possible disputes between workers and employers, such as, for example, by the promotion and approval of a compliance and improvement plan with corrective and preventive measures agreed by the employer and the workers; (iii) is performed by inspectors automatically or in response to a complaint about an alleged violation of workers' rights and before carrying out preliminary inquiries or initiating administrative sanctioning proceedings, without being a prior stage for these; (iv) does not

seek to establish whether a violation has been committed (feasible only under administrative penalty proceedings), which is why the worker and employer concerned are not deemed parties; and (v) ceases to be exercised when the case is transferred to the competent authority, is archived having been expressly withdrawn by the complainants or when a preliminary investigation or administrative sanctioning proceedings are instituted when the inspectors deem that the events at issue in the proceedings have not been resolved and constitute a violation of labour standards. The Government indicates that the exercise of the preventive function under the above conditions aims to provide a prompt and timely response to claims of labour rights violations, as well as to rationalize the use of resources by avoiding the precipitous launch of preliminary inquiries or institution of administrative sanctioning proceedings.

In their observations, while the CTC, CUT and CGT express the wish that the activities of the labour inspectorate should centre on education and prevention, they also refer to the lack of information from the Government on the number of preventive actions taken, as well as the impact of such actions on reducing labour rights violations or promoting labour rights. In this regard, the Committee notes that section 11 of Decision No. 772 provides that actions taken in performance of the preventive function must be recorded on a digital platform in order to facilitate their monitoring and control.

In connection with the discretion of labour inspectors to give warning or advice, the Committee deems it useful to recall that the discretion provided for in this regard in *Article 17(2)* of Convention No. 81 and *Article 22(2)* of Convention No. 129 implies that inspection staff have the necessary capacity for judgement to be able to distinguish between serious or repeated wilful non-compliance, culpable negligence or flagrant ill-will, which call for a penalty, and an involuntary or minor violation, which may lead to a mere warning. ***The Committee requests the Government to provide information on the application in practice of the preventive powers of labour inspectors provided for in Decision No. 772 of 2021, specifying the cases in which labour inspectors may take such actions and the number of actions taken (as a percentage of total inspection activities). In addition, the Committee requests the Government to indicate the measures taken to monitor and control these preventive actions, as well as their outcomes.***

3. *Suspension or termination of administrative sanctioning proceedings.* The Committee notes that section 200 of Law No. 1955 of 2019 empowers the Ministry of Labour to suspend or terminate administrative sanctioning proceedings for violation of labour standards, other than those relating to the formalization of labour, by means of an agreement with the employers under investigation, provided that they recognize their failure to comply with the relevant labour standards and undertake to implement corrective measures within one year through an improvement plan which must be approved by the Ministry of Labour. Once the improvement plan is fully implemented, the administrative sanctioning procedure is terminated. With regard to the imposition of penalties, the provision in question stipulates that: (i) if the agreement between the Ministry of Labour and the employers concerned is concluded at the preliminary inquiries stage, no penalty shall be applied; (ii) if it is concluded between the filing of charges and the presentation of pleadings, the penalty shall be reduced by half; (iii) if it is concluded between the evidentiary stage and the submission of allegations, the penalty shall be reduced by one third; (iv) the penalty shall not be reduced in the event that the employer repeats the violations; and (v) if the improvement plan is not complied with, the suspension shall be lifted and the remaining stages of the procedure shall continue, without any reduction of the penalty. ***The Committee requests the Government to provide information on the application in practice of the power provided for in section 200 of Law No. 1955 of 2019, to specify the officers authorized to exercise it and the circumstances under which they may do so and to indicate the number of administrative sanctioning proceedings suspended or terminated pursuant to the exercise of that power (as a percentage of total current sanctioning proceedings). The Committee also requests the Government to provide a copy of any supplementary regulations adopted by the Ministry of Labour pursuant to the aforementioned provision.***

In addition, the Committee notes that, in their observations, the CTC, CUT and CGT contend that the aforementioned provision does not provide for: (i) the participation of the workers or workers' organizations concerned in the conclusion, implementation and monitoring of agreements to suspend sanctioning proceedings or in the associated improvement plans; or (ii) redress for harm caused to workers or their representatives by the conduct under investigation. These workers' organizations consider that this situation poses a risk of impunity and the possibility of concluding agreements that do not adequately protect the rights of workers who have filed complaints the investigation of which may eventually be suspended or terminated. **The Committee requests the Government to provide its comments in this respect.**

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2023.]

Costa Rica

Labour Inspection Convention, 1947 (No. 81) (ratification: 1960)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1972)

[Previous comment on Convention No. 81](#)

[Previous comment on Convention No. 129](#)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection), and 129 (labour inspection in agriculture) together.

The Committee notes the observations of the Costa Rican Confederation of Democratic Workers (CCTD) of 2018 on the application of Convention No. 81, forwarded together with the Government's report, as well as the observations of the Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP) with the support of the International Organisation of Employers (IOE), received on 1 September 2018 on the application of Conventions Nos 81 and 129, and the Government's reply to these observations. The Committee also notes the observations of the UCCAEP of 2022 forwarded together with the Government's report on the application of Convention No. 81. The Committee also notes the joint observations of the Confederation of Workers Rerum Novarum (CTRN), the Costa Rican Workers' Movement Central (CMTC) and the Juanito Mora Porras Trade Union Federation (CSJMP), received on 5 September 2018, on the application of Conventions Nos 81 and 129, and the Government's reply to these observations, as well as the joint observations of the CTRN, the CMTC, the General Confederation of Workers (CGT) and the Workers' Unitary Confederation (CUT), received on 31 August 2022, concerning Convention No. 129.

Legislation. The Committee notes the Bill on the strengthening of the General Labour Inspectorate (file No. 21.706). The Committee also notes that, in their observations, the CTRN, CMTC, CGT and CUT refer to the Bill and forward a legal report prepared by the Studies, References and Technical Services Department of the Legislative Assembly, which analyses the Bill. According to the report, the Bill proposes reforms to the Organic Law of the Ministry of Labour and Social Security (MTSS), the Labour Code and the Childhood and Adolescence Code, in order to provide the General Labour Inspectorate with sufficient powers to enforce labour legislation, order corrective measures and even impose administrative penalties. **The Committee requests the Government to provide an indication of any progress made in the adoption of the Bill. The Committee also requests the Government to take the necessary measures to ensure that any new legislation on labour inspection is in full conformity with the provisions of the Conventions. The Committee reminds the Government that, if it deems it necessary, it may avail itself of the technical assistance of the Office within the framework of this legislative process.**

Article 3 of Convention No. 81 and Article 6 of Convention No. 129. Duties of labour inspectors in the area of dispute resolution. The Committee notes the Government's indication that, with the implementation of the Labour Procedures Reform Act of 2017, significant changes were made to the structure and functions of certain departments of the Ministry of Labour and Social Security. In particular, the Government indicates that, with the adoption of Decree No. 41059-MTSS, published in Official Gazette No. 81 of 10 May 2018, a new organizational structure was established through which the Labour Relations Department of the Labour Affairs Department (DAL) has been subdivided into eight regional alternative dispute resolution units, which operate independently from the labour inspectorates in each region. The Government indicates that while conciliation activities used to be included among the duties of labour inspectors in regional offices, this practice no longer takes place. It also indicates that, while there are specific situations in the regional offices where inspectors assist in conciliation and administrative activities, inspection activities take priority. With the creation of this new structure, the Government also indicates that a recruitment and selection process was carried out to fill the 40 new positions for arbitrators, conciliators, notifiers, legal advisers and support staff. The Committee notes that, in order to implement the Labour Procedures Reform, Regulation No. 40875-MTSS-JP on the resolution of legal labour disputes was published, which grants the MTSS the competence to compile a list of arbitrators to attend arbitration proceedings, and the power to regulate the functioning of the alternative dispute resolution centres.

The Committee also notes that in their observations, the CTRN, CMTC, CGT and CUT indicate that inspectors perform other activities including conciliation and office work, making it inconceivable that labour and social rights could be protected. ***The Committee takes note of Decree No. 41059-MTSS of 2018 and requests the Government to ensure that in the application of this Decree, labour inspectors will not assume tasks that hinder the effective performance of their main functions or impair in any way the effective performance of the latter.***

Articles 10, 11 and 16 of Convention No. 81 and Articles 14, 15 and 21 of Convention No. 129. Adequacy of the number of labour inspectors and measures necessary for inspection. The Government indicates that, as a consequence of the implementation of the Labour Procedures Reform, the human resources and budget of the National Labour Inspectorate (DNI) have been strengthened, thus increasing its staff by 40 per cent and its budget by almost 20 per cent. The Committee also notes that, according to the observations of the CTRN, CMTC, CGT and CUT, the number of labour inspectors in 2021 was 115, compared with 98 in 2015. The Government also indicates that in December 2021 the Ministry of Labour and Social Security initiated an internal competitions process enabling dozens of interim workers to become permanent in their posts, including in the labour inspectorate. The Government indicates that, while the Labour Procedures Reform Act doubtless involved the strengthening of human resources at the National Labour Inspectorate, over the last two years, due to the national fiscal context and the policy of reining in public spending, certain positions that were vacant due to retirement or transfers were frozen and subsequently cut. Additionally, a significant number of persons have retired over the last two years. Measures have also been implemented in the regional offices to improve the performance of inspection activities, including improvements in infrastructure, such as inspection rooms and rooms for alternative dispute resolution, audio and video equipment, as well as protective equipment and special accessories for the field work carried out by inspection staff. The Committee notes the Government's indication that on 13 January 2017, the National Insurance Institute (INS) and MTSS signed a vehicle loan agreement, thereby facilitating logistical support for workplace inspections.

In this regard, the Committee notes the indication by the CTRN, CMTC and CSJMP that: (i) inspectors do not have the materials, working tools or transport facilities necessary for the performance of their inspection duties; (ii) the number of inspectors is still insufficient given the new duties taken on by the National Labour Inspectorate following the Labour Procedures Reform, including involvement in the processing, monitoring and protection of workers affected by acts of discrimination. They also indicate that, despite the fact that the Ministry of Labour and Social Security appointed 30 new

inspectors since the entry into force of the Reform up to the beginning of September 2018, approximately the same number of inspectors retired. In light of the low number of inspectors, they indicate that it is materially impossible for them to monitor compliance in workplaces with regard to non-discrimination in wages between men and women, occupational safety and hygiene standards to prevent occupational accidents and diseases, and the payment of the minimum wage by employers, among other labour guarantees.

The Committee also notes that, according to the 2021 statistical yearbook of the Ministry of Labour and Social Security, the coverage rate of workers was 22.1 per cent in 2018, 30.1 per cent in 2019, 8.9 per cent in 2020, and 10.9 per cent in 2021.

The Committee notes that, in response to its previous comments concerning Convention No. 129 on the scheduling of inspection visits to undertakings with seasonal production, the Government indicates that the regional offices schedule inspections according to the harvesting and sowing season. **The Committee requests the Government to take the necessary measures to ensure that the number of labour inspectors is sufficient to secure the effective discharge of the duties of the inspectorate, including in the agricultural sector, and that workplaces are inspected as often and as thoroughly as is necessary to ensure the effective application of the provisions of these Conventions. The Committee also requests the Government to continue providing information on the number of inspections carried out, the number of employers and workers covered by inspections, and the material means placed at the disposal of labour inspectors for the discharge of their duties.**

Article 12(1) of Convention No. 81 and Article 16(1) of Convention No. 129. Free access of labour inspectors to workplaces. The Committee once again notes that the right to enter freely at night workplaces liable to inspection is restricted by section 89 of the Organic Act of the Ministry of Labour and Social Security to workplaces in which night work is carried out. The Committee recalls that in accordance with *Article 12(1)(a) of Convention No. 81 and Article 16(1)(a) of Convention No. 129*, labour inspectors provided with proper credentials shall be empowered to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection. **The Committee urges the Government to ensure that appropriate measures are taken without further delay to bring national legislation into conformity with the requirements of the Conventions in this regard, in order that labour inspectors are empowered to enter at night all workplaces liable to inspection, regardless of the working hours of those workplaces. The Committee requests the Government to keep the ILO informed of any progress made in this regard, including in the context of the Bill on strengthening the labour inspectorate.**

Articles 12(2) and 15(c) of Convention No. 81 and Articles 16(3) and 20(c) of Convention No. 129. Notification of the inspector's presence to the employer when carrying out an inspection and the principle of confidentiality. With regard to the notification of the labour inspector's presence to the employer when carrying out a visit, the Committee notes the Government's indication that within the MTSS a committee led by the Deputy Minister for Labour is updating the Manual of Legal Procedures of the Labour Inspectorate (Directive DMT-014-2014). **The Committee once again requests the Government to take the necessary measures to update the Manual of Legal Procedures of the Labour Inspectorate in accordance with Conventions Nos 81 and 129 and to give an indication of the progress made in this respect.**

The Committee is raising other points in a request addressed directly to the Government.

Croatia

Labour Inspection Convention, 1947 (No. 81) (ratification: 1991)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1991)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee notes the observations of the Union of Autonomous Trade Unions of Croatia (UATUC) and the Independent Trade Unions of Croatia (NHS) on Convention No. 81, received in 2016.

Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. Additional functions entrusted to labour inspectors. The Committee notes that the Government has not replied to its previous request regarding the role of the labour inspectorate and the justice system in the enforcement of the Foreigners Act (FA) and on joint activities involving the labour inspectorate in combating undeclared work. The Committee notes that pursuant to section 3(2) of the Labour Inspection Act (LIA), labour inspectors conduct inspections in connection with the implementation of other legislation whenever stipulated in specific legislation. The Committee also notes that the Annual Report of the labour inspectorate of 2017, referred to by the Government, contains information on the work of labour inspectors in the enforcement of the provisions of the FA, including measures relating to the work of foreigners without a permit or a work registration certificate (section 208 of the FA). The Committee recalls once again its previous comments that the Convention does not contain any provision suggesting that any workers be excluded from the protection afforded by labour inspection on account of their irregular employment status, and that the primary duty of labour inspectors is to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers and not to enforce immigration law. It further recalls that pursuant to *Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129*, any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties. ***The Committee requests the Government to take measures to ensure that the functions assigned to labour inspectors do not interfere with the main objective of labour inspectors to ensure the protection of workers in accordance with labour inspectors' primary duties as provided for in Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. It also once again requests the Government to provide detailed information regarding the role of labour inspectors in the enforcement of the FA, as well as any other joint activities between the labour inspectorate and other state bodies aimed at combating undeclared work, including the scope of these activities, the proportion of labour inspection activities and resources directed to the enforcement of the FA or otherwise combating undeclared work, and the impact of these activities on the work of the labour inspectorate with regard to the enforcement of legal provisions on conditions of work and the protection of workers.***

Articles 3(2), 10, and 16 of Convention No. 81 and Articles 6(3), 14 and 21 of Convention No. 129. Number of labour inspectors for the effective discharge of the duties of the inspectorate and additional duties. The Committee notes the observations by the UATUC and the NHS that there is an insufficient number of labour inspectors, and that the existing inspection staff is burdened by the quantity of work related to workers' claims in cases of employer bankruptcy, which prevents them from discharging their primary tasks in the fields of employment relations and occupational health and safety (OSH). The UATUC and NHS further note the likely imminent retirement of many labour inspectors, and that the lack of inspectors has a significant influence on the regularity and quality of inspections in the field of OSH and labour relations. The Committee notes the Government's statement that, as of 31 December 2016, the labour inspectorate employed a total of 226 labour inspectors and 10 other civil servants in positions related to IT and analytical activities for the improvement of the work carried out by the labour inspectorate and that by 31 December 2017, the number of labour inspectors had increased to 229. Nonetheless, the Government also identifies the insufficient number of labour inspectors as one of the difficulties encountered in the application of the Convention. ***The Committee requests the Government to provide further information regarding the measures taken or envisaged to ensure that a sufficient number of labour inspectors is appointed, in accordance with Article***

10 of Convention No. 81 and Article 14 of Convention No. 129, and that existing labour inspectors' additional duties do not interfere with the effective discharge of their primary duties.

Articles 5(a), 17 and 18 of Convention No. 81 and Articles 12, 22(1) and 24 of Convention No. 129. Institution of legal proceedings and enforcement of adequate penalties. In its previous comments, the Committee noted a decrease in the rate of cases in which the legal proceedings initiated by labour inspectors were declared inadmissible by the misdemeanour courts due to the expiration of the statute of limitations (from 58 to 36.5 per cent), due primarily to the adoption of the Misdemeanours Act modifying the applicable time limits. The Committee notes an absence of information in response to its previous request regarding additional measures to give effect to Articles 5(a), 17 and 18 of Convention No. 81. **Recalling the importance of cooperation between the labour inspection system and the justice system, the Committee requests the Government to provide information regarding any measures taken or envisaged to accelerate the examination of cases referred by labour inspectors to the courts and to ensure effective enforcement of adequate and sufficiently dissuasive penalties, including detailed information on the progress achieved or the difficulties encountered as well as statistical information on the number of legal proceedings initiated by labour inspectors that were declared inadmissible, and the main reasons for their inadmissibility.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Cyprus

Labour Inspection Convention, 1947 (No. 81) (ratification: 1960)

Previous comment

Article 3(2). Additional labour inspection duties entrusted to labour inspectors. In its previous comments, the Committee noted the Government's indication that the Department of Labour Relations (DLR) is not the competent authority for the enforcement of immigration law but that it cooperates, within its remit, with the Cyprus Police when dealing with such cases. In this respect, the Government reiterates that the DLR and the Centralized Labour Inspectorate (CLI) gathered detailed information on the number of migrant workers covered by inspection visits in 2015, 2016 and 2017, including the number of "unregistered foreign employees" and the number of "illegal foreign employees" detected. The Committee notes, however, that these statistics are not reflected in the labour inspection reports. The Government also indicates that there is a clear separation between police duties and those of labour inspectors. During an inspection, inspectors will inform employees about their rights and investigate any possible violation of the law, irrespective of the legal status of the worker and of police presence at the inspection. The Government indicates that police and other authorities are informed in case of illegal employment. The Committee recalls once again that, pursuant to Article 3 of the Convention, the functions of the labour inspection system are to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, and that any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties. In its [2006 General Survey on labour inspection](#), paragraph 78, the Committee indicated that any function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of labour inspection, which is to protect the rights and interests of all workers and to improve their working conditions. **The Committee once again requests the Government to take measures to ensure that the functions assigned to labour inspectors do not interfere with their main objective, which is to ensure the protection of workers while engaged in their work (as provided for in Article 3(1)), including taking further measures to separate labour inspectors from police activities related to migrant workers in an irregular situation. In this regard, the Committee requests the Government to provide information on the proportion of labour inspectors' time and resources that are spent on**

functions related to control of the regularity of employment of migrant workers. It also requests the Government to continue to provide information on specific measures undertaken by the inspectorate to ensure the enforcement of the rights of migrant workers found to be in an irregular situation. In this regard, the Committee requests the Government to provide information on the number of migrant workers in an irregular situation who have been granted their due rights (number of cases in which foreign workers have been paid outstanding wages and benefits) or where their situation has been regularized.

The Committee is raising other matters in a request addressed directly to the Government.

Djibouti

Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63) (ratification: 1978)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Technical assistance. The Committee notes the information provided by the Government in its brief report, including its request for ILO technical assistance to assist it in filling the gaps in implementation of the Convention. It recalls that the Government had not submitted information since October 2005. The Committee notes the information concerning the 2012 Statistical Yearbook, which is available online, as well as the 2015 Household Survey, to be published in June 2016. The Committee further notes that, according to the information available to the ILO Department of Statistics, labour market statistics in Djibouti are not compiled on a regular basis. ***The Committee requests that the Government provide information on the results and methodology of the 2015 Household Survey, as soon as it becomes available, and to regularly provide information on the application of the Convention.***

The Committee notes the recommendations of the Standards Review Mechanism Tripartite Working Group and the corresponding decision of the Governing Body at its 328th Session in October–November 2016 (GB/328/LILS/2/1) calling upon the Office to commence follow-up with Member States that are still bound by this Convention, encouraging them to ratify the Labour Statistics Convention, 1985 (No. 160), as the most up-to-date instrument in this area, and resulting in the automatic denunciation of Convention No. 63. ***The Committee reminds the Government of the availability of ILO technical assistance in this regard.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Ecuador

Labour Inspection Convention, 1947 (No. 81) (ratification: 1975)

Previous comment

The Committee notes the observations of the Trade Union Association of Agricultural, Banana and Rural Workers (ASTAC), received on 24 January 2020 and 30 August 2022, and the joint observations of ASTAC and the Ecuadorean Confederation of Unitary Class Organizations of Workers (CEDOCUT), received on 1 October 2020 on the application of this Convention. Furthermore, the Committee notes the joint observations of the Ecuadorian Confederation of Free Trade Unions (CEOSL), the Ecuadorian Federation of Municipal and Provincial Workers (FETMYP), the National Federation of Education Workers (UNE) and the National Ecuadorian Federation of workers of provincial governments (FENOGOPRE), received on 1 September 2022 on the application of the Convention.

Articles 6, 10 and 16 of the Convention. Status and conditions of service of labour inspectors. Inspection staff and coverage of inspection needs. The Committee notes the Government's indication that, in 2020, there was a total of 160 inspectors at the national level, while, at 31 August 2022, this figure was 200 (99 with permanent appointments and 101 with temporary appointments). While it welcomes the

increase in the number of inspectors, the Committee also notes that the 31 labour inspectors recruited between 2020 and August 2022 were appointed on a temporary basis (8 in 2020, 7 in 2021 and 16 between 1 January and 31 August 2022) and that the majority of inspectors are appointed on a temporary basis. In this regard, the Committee notes the Government's indication that, due the COVID-19 pandemic, it was necessary to reduce public spending and remove public posts in 2020, with the exception of labour inspectorate positions. In particular, the Government indicates that it was vital to allocate resources to health, and to set aside the call for a merit-based competitive exam to fill labour inspector vacancies. Furthermore, the Government indicates that the low number of inspectors with permanent appointments in August 2022 is due to the fact that merit-based competitive exams involve considerable budgetary expenditure, and the regulations governing the examination processes are currently being amended. Despite the fact that there are inspectors with temporary appointments and occasional contracts, the Committee notes the Government's indication that the stability of employment of these inspectors is guaranteed and that this stability is not affected by government changes.

Concerning the observations of the social partners, the Committee notes the following: (i) ASTAC indicates that there were only four inspectors in the province of Los Ríos, which meant that it was impossible for them to carry out their work; (ii) ASTAC and CEDOCUT indicate that, in accordance with their analysis of personnel distribution data, there were 196 inspectors in August 2020, and that there is no transparency on the part of the Government regarding the number of labour inspectors. They also indicate that, in recent years, there has been evidence of setbacks in the duties of labour inspectors, and that the situation was exacerbated by the reduction and restriction of spending by public institutions, which enables labour inspectors to obtain sufficient resources to carry out their work; and (iii) the CEOSL, FETMYP, UNE and FENOGOPRE indicate that the increase in the number of inspectors is not sufficient for them to carry out their duties.

The Committee also notes the Government's indication that, between 1 January and 24 September 2020, the number of inspections was 6,446 (2,857 in progress, 3,222 archived and 367 that resulted in penalties). In this regard, the Government indicates that, with the aim of adapting labour inspections to the mobility restrictions resulting from the pandemic, telematic tools were adopted to carry out control and monitoring work in relation to workers' rights. The Committee also notes that the Government does not provide information on the inspections carried out in 2021 and 2022.

The Committee understands the impact and difficulties caused by the COVID-19 pandemic. The Committee requests the Government to make every effort to ensure stability of employment for labour inspectors with temporary appointments, in accordance with Article 6 of the Convention. The Committee also requests the Government to provide detailed information on the conditions of service of labour inspectors, including their levels of remuneration and their employment tenure in comparison to the remuneration levels and job tenure of other officials exercising functions of similar complexity and responsibility, such as tax collectors and the police. The Committee also requests the Government to provide: (i) information on the measures adopted or envisaged in order to ensure that the number of labour inspectors is sufficient for the effective performance of their duties; (ii) updated statistical information on the number of inspectors and of inspections carried out; and (iii) detailed information on the manner in which it is ensured that workplaces are inspected with necessary frequency and thoroughness to ensure the effective application of the provisions of this Convention.

The Committee notes that, in its observations, ASTAC indicates that, in the province of Los Ríos, acts of corruption of inspectors were reported, and that a higher body should be established to assess the performance of inspectors, as corruption comes predominantly from within enterprises. ***The Committee requests the Government to provide comments in this respect.***

Articles 12 and 17. Free initiative of labour inspectors to enter workplaces without prior notice, and discretion to initiate legal proceedings without previous warning. The Committee notes that the Government refers to four types of inspections: (i) targeted inspections; (ii) comprehensive inspections;

(iii) inspections by means of electronic verification; and (iv) random inspections. The Government indicates that, during comprehensive inspections, labour inspectors shall review and plan for the assigned inspections, according to the non-compliances established by the computer systems of the Ministry of Labour. Where there are potential cases of non-compliance, the employer is notified electronically in order for an inspection to be conducted after the 15-day period following the issuance of the notification. At the site of the field inspection, the employer shall be notified of the cases of non-compliance identified, in order for the employer to justify, correct or remedy the non-compliance observed, within a period of five days. Where the case of non-compliance has been justified or the facts have been disproved, within the time frame established, the proceedings are closed. In the opposite case, if, within the five days following the notification issued during the field inspection, the cases of non-compliance have not been corrected or remedied, the employer shall be notified of a decision containing the date of a hearing, in order for the employer to justify the cases of non-compliance. If the hearing takes place, the inspector shall review the information submitted and draft a report within five days, which shall be brought to the attention of the regional labour director. The regional director has a period of 15 days to issue an administrative decision to impose a penalty or terminate the proceedings. The Committee notes that, according to the procedure described by the Government and established in Ministerial Decision No. MDT-2016-0303 of 29 December 2016, pursuant to which it was agreed to issue the "General Rules Applicable to Comprehensive Labour Inspections", and its amendment by Ministerial Decision No. MDT-2017-0110 of 10 July 2017, labour inspectors must give prior notice of the inspection to the employer. Labour inspectors are also required to give notice of compliance to the employer, while administrative decisions imposing penalties may only be issued by the regional director at the end of the hearing.

In their joint observations, the CEOSL, FETMYP, UNE and FENOGOPRE indicate that labour inspectors cannot enter, freely and without prior notice, establishments subject to inspections, as inspectors only conduct their activities during working hours, from 8 a.m. to 5 p.m., and are required to give prior notice of the inspection to the employer. In particular, they indicate that comprehensive field inspections require 15-days' notice to be given to the employer in accordance with section 12(1) of Ministerial Decision No. MDT-2016-0303 of 3 February 2017. In this regard, they also indicate that only inspections on request are conducted, as evidenced by the procedures for conducting targeted, electronic and comprehensive field inspections.

The Committee recalls that, in accordance with *Article 12(1)(a)* of the Convention, labour inspectors shall be empowered to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection. The Committee also recalls that *Article 17* of the Convention provides that, with certain exceptions, persons who violate or neglect to observe legal provisions enforceable by labour inspectors shall be liable to prompt legal proceedings without previous warning, and that it shall be left to the discretion of labour inspectors to give warning and advice instead of instituting or recommending proceedings. ***The Committee requests the Government to adopt measures to ensure that labour inspectors are empowered, in law and practice and in line with Article 12(1)(a) and (b) of the Convention, to make visits without previous notice. The Committee also requests the Government adopt the necessary measures to ensure that labour inspectors are able to prompt legal proceedings without previous warning, where required, in accordance with Article 17 of the Convention. Furthermore, the Committee requests the Government to provide information on the number of announced and unannounced inspections conducted by labour inspectors, and to indicate in detail the number of violations detected and the specific sanctions imposed through both announced and unannounced inspections.***

Articles 19, 20 and 21. Periodic reports and the preparation, publication and transmission of an annual report on the work of the inspection services. The Committee notes that the Office has not received the annual report on the activities of the labour inspection services. In this regard, the Committee notes that the 2019 accountability report contains information on the total number of inspections carried out

and the penalties imposed. ***The Committee once again requests the Government to make every effort possible to ensure that the central authority on labour inspection transmits to the ILO an annual report on the work of the inspection services containing all the information required under Article 21(a)–(g) of the Convention. The Committee also requests the Government to provide information on the publication of the annual report in accordance with Article 20(1) of the Convention.***

The Committee is raising other matters in a request addressed directly to the Government.

Finland

Labour Inspection Convention, 1947 (No. 81) (ratification: 1950)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1974)

Previous comment on Conventions Nos 81 and 129

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee notes the observations of the Central Organization of Finnish Trade Unions (SAK) on the application of Convention No. 81, communicated with the Government's report.

Article 3(1) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No. 129. Cooperation with the police in the control of immigration law. Following its previous comments, the Committee notes the indication in the report of the Government that the labour inspectorate still carries out joint inspections with the police and the Finnish Border Guard in industries such as agriculture, restaurants, and construction, as it has been established that there are workers without the necessary work permits in these sectors. According to the Government, cooperation between various authorities is considered an effective method to tackle the informal economy and allows the authorities to make effective use of their different powers. The Government indicates that, based on the feedback received, the cooperation between authorities does not cause fear in the workplace and instead, increases trust in the maintenance of a fair and harmonious labour market, encouraging employers to comply with their statutory obligations. The Government further states that labour inspection related to migrant workers aims to ensure that workers have safe working conditions and terms of employment that are compliant with legislation, and that the labour inspectorate provides guidance to workers on minimum terms of employment. The Government nevertheless indicates that all matters related to unpaid wages and social benefits are handled by the Centre for Economic Development, Transport and the Environment (ELY Centre), and the labour inspectorate does not have any data regarding the wages or social security benefits paid to migrant labourers. Furthermore, the Committee observes that the Government also refers to the expectation of potential opposition and aggressive behaviour at certain inspections of this type, making the presence of the police and the Finnish Border Guard useful to ensure the safety of labour inspectors. The Committee refers the Government to its [2006 General Survey on labour inspection](#), paragraph 78, and underlines that the objective of labour inspection can only be met if workers are convinced that the primary task of the inspectorate is to enforce legal provisions relating to conditions of work and protection of workers. The Committee also notes the observations of the SAK, indicating that the current resources for occupational safety and health (OSH) enforcement are inadequate, and that addressing that enforcement in relation to labour abuses in the shadow economy should not be achieved at the expense of OSH enforcement. ***The Committee therefore urges the Government to take the necessary measures to ensure that labour inspectors' participation in joint inspections does not interfere with the effective discharge of their primary duties under Article 3(1) of Convention No. 81 and Article 6(1) of Convention No. 129. The Committee requests the Government to provide further information on the measures taken to ensure that labour inspectors' participation in***

joint inspections does not prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers. In addition, the Committee requests the Government to provide further detailed information on the procedure for enforcing employers' obligations arising from the statutory rights of undocumented migrant workers for the period of their effective employment relationship, including information on the labour inspectorate's advisory role in directing such workers to the ELY Centre and to social security authorities.

The Committee is raising other matters in a request addressed directly to the Government.

Ghana

Labour Inspection Convention, 1947 (No. 81) (ratification: 1959)

Previous comment

Articles 10, 11 and 16 of the Convention. Human resources and material means of the labour inspectorate and coverage of workplaces. In its previous report, the Government had stated that it faced challenges including an insufficient number of inspectors and inadequate logistical support for inspections and enforcement. In reply to the previous comment of the Committee, the Government indicates that it has recruited over 75 labour officers and inspectors to increase staffing levels. The Committee notes that according to the Government, the Labour Department counts 170 inspectors. The Committee notes, however, that this figure is similar to the one reported in 2017, when the Government indicated a total of 171 inspectors. Concerning the reasons for the decline of inspections undertaken by the Department of Factories Inspectorate between 2014 and 2016, the Government indicates that such decline was due to the attrition rate of workers, which the country witnessed between 2014 and 2016. The Government also indicates that, after this period, more inspectors have been recruited and that it is still recruiting additional staff to enable the Department to enhance its inspectorate work. The Committee notes that the Government does not provide information on the number of staff in the Department of Factories Inspectorate. Further, the Committee notes that, according to the Statistical Reports of the Ministry of Employment and Labour Relations for the years 2018, 2019 and 2020, the number of labour inspections undertaken by the Labour Departments were 284 in 2018, 202 in 2019 and 256 in 2020. The Committee also notes that the inspections in the field of occupational safety and health, undertaken by the Department of Factories Inspectorate were 2,147 in 2018, to 2,936 in 2019 and 2,676 in 2020. With respect to material resources available to the labour inspectorate, the Government indicates that office equipment and vehicles were provided to the Labour Department and the Department of Factories Inspectorate to enhance their operations. ***The Committee requests the Government to continue to provide information on the number of labour inspections undertaken by the Labour Department and the Department of Factories Inspectorate and the number of inspectors in each Department. The Committee also requests the Government to explain whether the current number of Labour Department inspectors is adequate to conduct effective inspections of workplaces in light of the Government's prior indication that it was not. Further, the Committee requests the Government to continue to provide information on the measures taken to ensure that the labour inspection services have at their disposal the required material resources to enable them to effectively carry out their duties.***

Articles 17, 18 and 21(e). Enforcement of the legal provisions relating to the conditions of work and the protection of workers. The Committee previously requested information on the application of penalties, as well as concerning the revision of penalties for labour law provisions. The Committee notes in this regard the Government's indication that it will provide the requested information in its next report. The Committee further notes that a training for labour inspectors and the Office of the Attorney General was organized in June 2022 under the Trade for Decent Work Programme (T4DW). The Committee notes that in its report under Convention No. 182, the Government indicates that such training resulted in

useful recommendations for improving the collaboration between the Office of the Attorney General and the labour inspectorate on the prosecution of cases of child labour and other violations at the workplace. ***The Committee renews its request for the Government to provide detailed statistics on the violations detected, the number and nature of penalties imposed and the amount of fines collected. It also requests the Government to indicate the follow-up actions for issues of non-compliance detected, including statistics on the outcome of the cases transmitted for prosecution. In addition, the Committee requests the Government to provide information on any revision of “penalty units”, as defined pursuant to the Fines (Penalty Units) Act of 2000, with a view to ensuring that there are adequate penalties for violations of the legal provisions enforceable by labour inspectors.***

The Committee is raising other matters in a request addressed directly to the Government.

Greece

Labour Inspection Convention, 1947 (No. 81) (ratification: 1955)

Previous comment

The Committee notes the observations of the Greek General Confederation of Labour (GSEE), received on 1 September 2021, the additional observations of the GSEE and the observations of the Federation of Associations of the Ministry of Labour (OSYPE), received on 13 May 2022, as well as the Government's reply.

Articles 3 and 4 of the Convention. Restructuring of the labour inspection system. Organization and effective functioning of the system of labour inspection. Supervision and control by a central authority. The Committee notes the adoption of Law 4808/2021, which establishes a new framework for the organization and operation of the labour inspectorate and envisages its transformation into an independent authority separated from the Ministry of Labour and Social Affairs (MLSA). The Committee notes that the GSEE and the OSYPE allege that the new law was adopted without consultations and foresees a far-reaching transformation of the governance, administration and operation of the labour inspectorate. In its reply, the Government indicates that the Minister held repeated meetings with employers' and workers' representatives prior to the adoption of the law, as well as before and after its submission to the Parliament. The Government indicates that the labour inspectorate's transformation into an independent authority aims to ensure the effectiveness of public administration in monitoring compliance with the labour and social insurance law through the creation of an adequate framework of independence, transparency and accountability, as well as the establishment of a climate of trust towards inspection institutions.

The Committee notes that under section 102 of Law 4808/2021, for the commencement of operation of the labour inspectorate, a relevant decision of the MLSA should be issued. Furthermore, according to the same section of the law, from the commencement of operation of the new labour inspectorate, the existing Labour Inspection Body (SEPE) is abolished, as the new labour inspectorate replaces it automatically in all rights, claims, obligations, legal relations and pending lawsuits. The Committee notes the Government's indication that the new labour inspectorate has started its operations as of July 2022, pursuant to Decision No. 67759 (G.G. 3795/B ' /19.07.2022). The Government explains that in accordance with section 102(6) of Law 4808/2021, from the beginning of the operation of the new labour inspectorate, where SEPE is referred to in existing legal provisions, the new labour inspectorate shall be implied, and where the General Inspector is referred to, the Governor or the Administrative Board of the labour inspectorate shall be implied. In this respect, the Government refers to Decision No. 1955 (G.G. 14/ 13.01.2022) on the appointment of the Administration Board Members of the Labour Inspectorate and Decision No. 52272 (G.G. 455/02.06.2022) on the Appointment of the Governor of the Independent Authority of the Labour Inspectorate. The Committee notes that a new project entitled “Support to the Operational Modernisation of the Labour Inspectorate and the

Mediation and Arbitration Service (OMED) in Greece” will be implemented in close cooperation with the ILO and with funding from the European Union, with the aim to support the Greek authorities in the restructuring of the labour inspectorate into an independent body.

The GSEE indicates that the new law removes the institutional responsibility of the MLSA to oversee compliance with labour and social security standards by the labour inspectorate and creates an adverse impact in labour inspectorate’s provision of services. According to the trade union, without the MLSA having the main supervisory and coordinating role, the uniform enforcement of the labour law will no longer be possible. Furthermore, according to the GSEE, separating the labour inspectorate from the central office of the MLSA, where all relevant employment policy departments are placed, will certainly disrupt the link to continuous information on all labour matters required for the design and fulfilment of the labour inspectorate mission. In its observations, the OSYPE indicates that the separation of the labour inspectorate from the MLSA signifies a separation from all directorates responsible for the interpretation of the rules of labour law, as well as from the information system ERGANI which belongs to the MLSA and is the most critical tool both for the identification of undeclared work and for the compliance of the terms of employment contracts by companies. In its reply, the Government clarifies that, under the new legislative framework, the labour inspectorate takes the role of the central authority, which has hierarchical structure and uniform administrative bodies (Administrative Board and Governor). It indicates that the bodies’ term of office and the way they are selected ensure that they shall not be affected by any government change. Regarding ERGANI, the Government indicates that under section 8(1) “Access and management” of the Ministerial Decision No. 40331 (B’ 3520/2019), which is currently in force, it is provided that SEPE (now replaced by the Labour Inspectorate) has access to all relevant forms and data submitted, which according to the Government also means full access to ERGANI.

The Committee notes that the GSEE also highlights the need for a nation-wide upgrading of the Labour Inspectorate that will: (i) increase regional directorates in line with the country’s regions and spread their local departments in each regional unit; and (ii) institutionalize controls by inspectors in neighbouring regions other than the region in which they are based, with a view to enhancing transparency of controls. In its reply the Government indicates section 21(4) of Law 3996/2011, which refers to the Regional Committees for Social Inspection of the Labour Inspectorate (PEKEE), is still in force. Thus, the Committee understands that the internal structure of the labour inspectorate has remained the same. ***The Committee requests the Government to provide, information on the capacity of the new labour inspectorate to fulfil its functions under Article 3(1) of the Convention, including with regard to the period of transition between the SEPE and the new inspectorate. The Committee also requests the Government to continue to provide information on the structure of the labour inspectorate as an independent authority and to provide an organigram of the new structure.***

Article 3(1)(a), (b) and (2). Labour inspection activities in the area of undeclared work and illegal employment, including in relation to foreign workers. The Committee recalls that from 2016 to 2020 a development cooperation project on “Supporting the transition from informal to formal economy and addressing undeclared work in Greece” was implemented by the Government in close collaboration with the ILO and the social partners in Greece, supporting the implementation of the road map to tackling undeclared work in the country. The Committee notes that a series of legislative changes were adopted in the area of protection of workers’ rights, including through law 4554/2018, as amended by Law 4635/2019, which includes a section entitled “combating undeclared work” providing for administrative sanctions for undeclared work and foresees the establishment of a “Register of Delinquent Employers in matters of Undeclared Work”. The Government indicates that the said system is being developed at the ERGANI Information System of the MLSA. In its observations, the GSEE indicates that the implementation of the agreed road map on undeclared work, for which the joint action by the labour inspectorate and the competent departments of the MLSA is instrumental, has not been completed. It further indicates that undeclared work is the norm in the agricultural sector and states that the

secession of the labour inspectorate from the MLSA, introduced by the recent reform, will further intensify the reluctance of the Government to ratify the Labour Inspection (Agriculture) Convention, 1969 (No. 129), despite the commitments made in the context of the ILO technical assistance and the road map for undeclared work. In its reply the Government indicates that the new labour inspectorate has the competence to carry out inspections in the agricultural sector under article 2(2) of Law 3996/2011, which remains in force. The Government also indicates that, taking into account that trafficking in human beings for labour exploitation is directly related to undeclared work, the labour inspectorate assists the work of other authorities that are primarily responsible for identifying victims of human trafficking, such as the Hellenic Police. Furthermore, the Government indicates that in a meeting of the Supreme Labour Council in October 2022, the need to prioritize the consideration of ratification of Convention No. 129 was highlighted, taking into account the new legislative framework in force for the Labour Inspectorate. The Committee recalls that, pursuant to *Article 3(1) and (2)* of Convention No. 81 (and *Article 6(1) and (3)* of Convention No. 129), the functions of the system of labour inspection shall be to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, and any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties. ***The Committee requests the Government to provide information with regard to the development and the functioning of the Register of Delinquent Employers in matters of Undeclared Work. In addition, the Committee requests the Government to provide further information on the functions relating to the control of undeclared work entrusted to the new labour inspectorate, including its cooperation with the police, and to provide information on the specific measures taken to ensure that these functions do not negatively impact the mandatory functions of the labour inspection system concerning the protection of workers, including their safety and health. The Committee accordingly reiterates its request that the Government provide detailed information on the total number of labour inspections, including specifically the number of OSH inspections and those relating to undeclared work. The Committee once again requests the Government to indicate the role and activities of labour inspectors in relation to foreign workers where they are found to be in an irregular situation. In this regard, the Committee once again requests the Government to provide information on the number of foreign workers in an irregular situation who have been granted their due rights (number of cases in which foreign workers have been paid outstanding wages and benefits) or where their situation has been regularized.***

Article 6. Status and conditions of service of labour inspectors. Independence of inspectors. The Committee notes that section 104 of Law 4808/2021 provides for the functional independence of the Governor and the members of the labour inspectorate's Governing Board, while section 114 defines the powers of the Governor which include, inter alia, the authority to define the service status, the salary status, the disciplinary procedure, the organizational structure of the staff positions, as well as the power to set up the Executive and Disciplinary Boards and to lay down the rules for their decision making. The Committee notes the observations of the GSEE and the OSYPE according to which the guarantees on independence as enshrined in the Law 3996/2011, are undermined by the reform. More specifically the GSEE and the OSYPE indicate that: (i) section 104 does not provide guarantees of independence for all employees of the labour inspectorate; (ii) the way the Governor and the Governing Board are chosen does not guarantee in the first place the independence of inspectors themselves; (iii) the law allows for an overconcentration of powers in the Governor's person, and the exercise of the powers without any control; and (iv) the guarantees of the Civil Servants Code no longer exist since the Disciplinary and Service Boards fall under the uncontrolled power of the Governor, and courts do not have jurisdiction to judge the disputes in question. Regarding the status and conditions of service of labour inspectors, the GSEE and the OSYPE indicate that the law brings a complete dependence of the inspectors on the Governor for all matters concerning their employment status. The Committee notes that in its observations, OSYPE also indicates that the separation of the labour inspectorate from the

MLSA changes the regime and the terms of employment for inspectors specifically taking into account that the provisions of Law 4808/2021 make no explicit reference to "labour inspectors", but rather generally refers to "employees" of the independent authority, a working status which is unilaterally regulated by the Governor. In its reply, the Government indicates that according to section 114 of the law 4808/2021, the Governor shall establish or merge Personnel and Disciplinary Boards at the labour inspectorate, as well as Special Assessment Committees and determine the specific issues of their operation in accordance with the provisions in force. According to the Government, this means that the legislation does not authorize the Governor of the labour inspectorate to deviate from the general provisions on disciplinary control and the bodies thereof. With regard to the independence of the labour inspection authority, the Government indicates that in accordance with the Constitution, the provisions of Law 3051/2002 and the Standing Orders of the Hellenic Parliament, independent authorities, as administrative State bodies under a legal status similar to that of the Government, are subject only to judicial control and parliamentary scrutiny. The Committee also notes that section 117 of the new law provides that all existing staff of the SEPE are automatically transferred to the new labour inspectorate, with the same type of employment relationship they had under the SEPE. ***The Committee requests the Government to provide detailed information on the conditions of service of labour inspectors under the new labour inspectorate, including their levels of remuneration and their employment tenure in comparison to the remuneration levels and job tenure of other officials with similar functions, such as tax collectors and the police. The Committee also requests the Government to provide information on any decision adopted by the Governor of the labour inspectorate in the implementation of section 114 of the law 4808/2021 concerning arrangements for disciplinary and personnel matters.***

Article 10. Number of inspectors. The Committee takes note of a series of measures and legislation adopted to address structural and staffing problems, particularly staff reduction in SEPE. It notes particularly that through the Presidential Decree No. 134/2017 "Organization of the Ministry of Labour, Social Security and Social Solidarity" (OG 168/A'/06.11.2017), the number of directorates, departments, inspectors' statutory posts and special labour inspectors' posts increased. Furthermore, the Government indicates that SEPE was staffed via transfers and appointments of employees, including following the Law 4440/2016, on the basis of which 55 employees were transferred and posted to SEPE. The Committee notes that in 2018, the SEPE had a workforce of 732 employees, out of which 621 were labour inspectors and 372 labour relations inspectors. In its observations, the GSEE calls on the importance of taking measures to strengthen the human resources of the labour inspectorate by means of expedited procedures in the context of mobility or recruitment and to quickly staff the labour inspection offices operated by a single-person, with a view to enhancing the effectiveness of SEPE and also to discharge the inspectors from bureaucratic work so that they are able to perform their auditing unobstructed. ***The Committee requests the Government to provide its comments in this respect. The Committee also requests the Government to continue to provide information on the number of labour inspectors, including on the recruitment of additional staff, in order to ensure that there is a sufficient number for the effective discharge of the duties of the inspectorate, especially in the context of the new labour inspectorate.***

Article 11. Material resources of the labour inspectorate. Reimbursement of expenses incurred by labour inspectors in the exercise of their duties. In its previous comments, the Committee noted the observations made by the Union of Occupational Safety and Health Inspectors according to which: (i) the majority of travel expenses incurred by labour inspectors are not covered; (ii) there was a reduction in budget between 2009 and 2014, and the number of travel facilities is insufficient; and (iii) labour inspectors are not provided with the personal protective equipment required for inspections in high-risk workplaces. The Committee notes that the Government did not provide any relevant information on this matter. In its observations, the GSEE calls on the importance of taking measures to support and upgrade the logistical infrastructure of SEPE by ensuring appropriate building facilities, as well as the provision of service vehicles, modern work environment measuring instruments and personal protective equipment

to inspectors. **The Committee requests the Government to provide its comments in this respect. The Committee also requests once again that the Government indicate the measures taken to ensure that labour inspectors are reimbursed for all expenses incurred in the performance of their duties, and that they are provided with the required personal protective equipment to ensure adequate protection against risks to their safety and health during the performance of their duties. It also requests the Government to provide information on the budget allocated to the labour inspection service, especially in the context of the creation of the new labour inspectorate, and to describe the availability of transport facilities and suitably equipped offices throughout the territorial structures of the labour inspection service.**

Articles 17 and 18. Adequate penalties imposed and effectively enforced. The Committee notes the information provided in the Government's report regarding the activities of the SEPE, in particular the violations detected, the number of cases brought to the courts, and the penalties imposed up to 2020. The Committee notes that Ministerial Decision 80016/2022 categorizes the types of violations and determines the amount of fines to be imposed by the labour inspectorate for violations of labour law. In its observations, the GSEE points to a significant and unjustified reduction of fines for breach of labour law, which benefits and encourages employers' infringements. In this respect GSEE places emphasis on the need to immediately re-evaluate the system of fines and their calculation involving representatives of SEPE. **The Committee requests the Government to provide its comments in this respect and to indicate the measures taken or envisaged to ensure the establishment of adequate penalties for the violation of legal provisions enforceable by labour inspectors. The Committee requests the Government to continue to provide detailed information on the number of violations detected, the number of cases brought to the courts, and the penalties subsequently imposed.**

The Committee is raising other matters in a request addressed directly to the Government.

Guinea

Labour Inspection Convention, 1947 (No. 81) (ratification: 1959)

[Previous comment](#)

The Committee notes that, in March 2021, the Governing Body declared receivable a representation submitted by the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) under article 24 of the ILO Constitution, alleging non-observance by Guinea of the Convention, as well as of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), and the Protection of Wages Convention, 1949 (No. 95), and appointed a tripartite committee to examine it (GB.341/INS/14/6, March 2021). The Committee notes that the allegations contained in the representation refer to *Articles 3, 6, 9, 10, 11 and 12* of Convention No. 81. In accordance with its usual practice, the Committee has decided to suspend its examination of these issues pending the decision of the Governing Body in respect of the representation.

Article 7 of the Convention. Training of labour inspectors. Further to its previous comment, the Committee notes the Government's indication that, apart from the mandatory one-year training course provided for in the General Statute for Public Officials, labour inspectors do not receive any special training for the performance of their duties. However, in 2021, 36 officials newly placed at the disposal of the General Labour Inspectorate (IGT) benefited from three months of initial training at the initiative of the General Labour Inspectorate. In addition, in 2021, Guinea benefited from ILO technical assistance, which was provided through workshops held jointly with the IGT. A total of 10 inspectors participated in this training, which will serve to operationalize, at national level, the National Social Dialogue Council. Currently, a training programme on child labour and trafficking is planned for labour inspectors and certain officials of the labour administration using technical and financial assistance from the United

Nations Children's Fund (UNICEF). ***The Committee requests the Government to continue its efforts to ensure that labour inspectors are adequately trained for the performance of their duties. The Committee requests the Government to continue providing information on the progress made in this regard.***

Articles 20 and 21. Annual labour inspection report. The Committee notes the quarterly reports of the IGT for 2022, appended to the Government's report, providing information on activities related to inspection and other functions performed by labour inspectors, the types of violations detected and the measures taken in response. The Committee notes, however, that these reports do not contain the statistical information required in accordance with *Article 21* of the Convention. In particular, the Government indicates that information on workplaces liable to inspection can be collected through the systematic inspection of enterprises. The Government also indicates that the labour inspection reports will soon be published on the website of the Ministry of Labour and Public Service. ***While noting the Government's efforts to transmit an annual inspection report in accordance with Article 20 of the Convention, the Committee encourages the Government to adopt all the necessary measures to ensure that all the information required by Article 21 of the Convention is collected and published in the annual labour inspection report.***

Guyana

Labour Inspection Convention, 1947 (No. 81) (ratification: 1966)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1971)

[Previous comment on Convention No. 81](#)

[Previous comment on Convention No. 129](#)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

Articles 6 and 10 of Convention No. 81 and Articles 8 and 14 of Convention No. 129. Status and conditions of service of labour inspectors and number of labour inspectors. The Committee previously noted from the annual report of the Labour and Occupational Safety and Health Department (LOSHD) that, due to resignations or non-renewal of contracts, the number of labour inspection staff significantly decreased, and that it was not possible to find suitable candidates to fill the vacant positions. The Committee further recalled its earlier observation, according to which the salary of labour inspectors was less than half that of tax inspectors and approximately half that of National Insurance Scheme Inspectors. The Government indicates that, in 2021, the Ministry of Labour filled all the vacancies for labour officers and that promotion from labour officer to senior labour officer is possible and is based on performance. The Government indicates that a total of 12 labour officers and nine occupational safety and health (OSH) officers were hired in 2021. The Committee notes the Government's indication that salary scales have not been revised, but are comparable with those in the public service. ***The Committee requests the Government to continue to provide information on the total number of labour inspectors and to indicate the number of new recruitments and promotions of incumbent staff. It also requests the Government to provide details on the salary scale and career stability of labour inspectors and to provide a comparison in relation to those of other similar categories of public officials, specifically including tax inspectors and National Insurance Scheme Inspectors.***

Articles 20 and 21 of Convention No. 81 and Articles 25, 26 and 27 of Convention No. 129. Annual labour inspection reports. Concerning the Committee's previous comment on the establishment of a register of workplaces liable to inspection and the number of workers employed therein, the Government indicates in its report that there is a requirement for industrial workplaces to register with the Ministry of Labour

on a yearly basis by, for example, indicating the number of workers being employed. The Government notes, however, that not all industrial establishments are registering with the Ministry and that efforts are being made to ensure that this registration takes place. The Government indicates that employers are informed that the failure to register with the Ministry of Labour is a breach of the OSH Act and that legal actions may be instituted against them. For the years 2020 and 2021, a total of 424 workplaces were registered, mainly for businesses located in Region 4. The Government notes that a strategy is being designed to establish a similar system in other regions to facilitate the registration process. The Committee notes the Government's indication that ILO technical assistance would be welcomed to establish a recording system to facilitate the registration of workplaces. The Committee notes that no labour inspection report was transmitted to the ILO and that the Government report contains limited information on the activities of labour inspectors for 2021, such as the number of inspection visits, the number of charges filed and the number of non-fatal occupational accidents in the agricultural sector. **Therefore, the Committee requests the Government to pursue its effort to ensure that the labour inspection report is compiled and published in accordance with Article 20 of Convention No. 81 and Articles 25 and 26 of Convention No. 129 and that such report contains information on all the subjects listed in Article 21 of Convention No. 81 and Article 27 of Convention No. 129. The Committee hopes that the technical assistance requested by the Government will be provided in the near future, with a view to ensuring the establishment of a register of enterprises and full compliance with Articles 20 and 21 of Convention No. 81 and Articles 25, 26 and 27 of Convention No. 129.**

The Committee is raising other matters in a request addressed directly to the Government.

Haiti

Labour Inspection Convention, 1947 (No. 81) (ratification: 1952)

The Committee notes the observations of the Confederation of Haitian Workers (CTH) and the Confederation of Public and Private Sector Workers (CTSP) received on 2nd of November 2022. **The Committee requests the Government to provide its comments in this respect.**

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP) received on 1 September 2019, in which it reiterated its observations of 2016, 2017 and 2018 and adds that the situation has deteriorated.

Articles 3, 12, 13, 15, 16, 17 and 18 of the Convention. Discharge of primary duties of the labour inspectorate. Appropriate sanctions. In its previous comment, the Committee noted the Government's indications concerning the obstacles faced in applying the Convention in practice, particularly the inadequate numbers of labour inspectors, and requested the Government to supply detailed information together with statistics on the planning and implementation of systematic inspections throughout the country, including in the export processing zones, and also their results. The Committee notes the information provided by the Government concerning the planning and implementation of inspection visits in two of the ten departments in the country in several activity sectors, including: (i) in the western department: 64 inspections (32 initial inspections and 32 catch-up inspections) conducted in 2017; 16 inspections (11 of which in the textile industry), 31 unannounced inspection visits in enterprises and 24 investigations, conducted in 2018; and 42 visits planned and ten advice services carried out in 2019; and (ii) in the north-eastern department, ten initial inspections and ten follow-up inspections were conducted in 2018. The Government indicates that the main objective of labour inspection over this period has been redressing the inconformity identified, rather than imposing penalties. The Committee also notes that the CTSP in its observations indicates that inspectors do not provide technical advice to workers and employers, but limit themselves to calculating the statutory benefits due in disputes between employers and workers. The CTSP also indicates that there are no statistics on labour inspection in the country; to its knowledge, there is no planning or implementation of systematic inspections throughout the country; and, in practice, labour inspection was carried out only in the textile industry. **While duly noting the progress achieved since 2017 by the labour inspectorate in the country,**

particularly concerning the planning and implementation of visits in two of the ten departments in the country, the Committee requests the Government to strengthen its efforts to progressively expand the planning and conducting of inspection visits to all regions and all economic sectors of the country. The Committee also requests the Government to continue to provide information on the measures taken in this regard, including the statistics concerning the number of inspections planned and conducted, disaggregated by sector, along with details of the results of these visits, including the warnings issues, legal procedures brought or recommended, and penalties imposed and applied. The Committee also requests the Government to ensure that, during their inspection visits, the inspectors perform their primary functions in conformity with Article 3 of the Convention.

Articles 6, 10 and 11. Human and material resources available to the labour inspectorate. The Committee notes the Government's indication in reply to its previous comments that: (i) between 2014 and 2017, thanks to the project to build the capacities of the Ministry of Social Affairs and Labour (ILO/MAST), piloted by the ILO, a team was established of 20 officials, 12 of whom are inspectors in the field and eight are trainers; (ii) in 2018, means of transport (six motorcycles and a car) were provided to certain regional MAST offices and that efforts are envisaged to equip all inspection services with the means necessary to guarantee labour inspection in workplaces; and (iii) it planned to upwardly revise the salaries of labour inspectors in the same way as all other inspectors of the public administration. The Committee notes the CTSP's observations, according to which the Government has not made an effort to change the status of labour inspectors in order to provide them with better employment conditions, such as a decent salary, a guarantee of productive employment and social advantages, which could jeopardize the independence of inspectors. **The Committee requests the Government to pursue its efforts towards progressively increasing the number of inspectors and the material means placed at their disposal to enable them to effectively discharge the functions of the inspection services. The Committee also requests the Government to take the necessary measures to improve the conditions of service of the inspectors, including increasing their remuneration. In this regard, it requests the Government to provide information on the salary scales and labour inspectors' career prospects, compared with public servants who carry out similar functions within other government services, such as tax inspectors and the police.**

Articles 6, 7(1) and Article 15(a). Recruitment of inspectors. Prohibition from having any direct or indirect interest in the undertakings. In its previous comment, the Committee noted that, in its observations, the CTSP indicated that recruitment of labour inspectors was carried out on the basis of clientelism. The Committee notes the Government's indication that, to ensure full application of sections 47 to 75 of the Decree of 17 May 2005, revising the general public service regulations, which regulate the recruitment procedure of public service agents, including labour inspectors, an administrative structure has been established for this purpose, entitled the Office for Human Resources Management (OMRH). The Committee also notes that the CTSP reiterated in 2019 its previous observations on this matter and indicated the further deterioration of the labour inspectorate's independence vis-à-vis employers. **The Committee requests the Government to ensure that labour inspectors are recruited with sole regard to their qualifications for the performance of their duties and that their status and conditions of service are such that they are independent of changes of government and of improper external influences in conformity with Articles 6 and 7(1) of the Convention. The Committee also requests the Government to provide information on the composition of the OMRH as well as on its prerogatives.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Hungary

Labour Inspection Convention, 1947 (No. 81) (ratification: 1994)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1994)

Previous comment

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

Article 3(1) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No. 129. Additional functions entrusted to labour inspectors. The Committee notes that the Labour Inspection Act, which entrusted labour inspectors, among other things, with the control of the work and residence permits of foreign workers, and the notification to the immigration police of any decision concerning the infringement of the provisions on the employment of foreign workers, has been repealed. The Committee notes that the functions entrusted to labour inspectors are now defined in the Employment Supervision Act and the Decree No. 115/2021. Under this Decree, the employment supervision authority, in the context of the control of regularity of employment, is tasked to regulate and control the work permit of third-country nationals. The Government indicates that, as of 1 March 2021, section 10(2) of the Employment Supervision Act introduced a new rule to ensure further protection of employees' rights. If the employer fails to meet its reporting obligation related to the establishment of a legal relationship involving employment, the employment supervisory authority determines the existence of a legal relationship involving employment from the 30th day calculated retroactively from the start of the infringement, unless it is established during the administrative procedure, that failure to report employment exceeded thirty days. The Committee also notes that according to section 15 of the Decree No. 115/2021, if the employment supervisory authority establishes a violation of the legislation concerning the employment of a third-country national, it shall send its final decision to the immigration enforcement authority. The Committee notes that the proportion of workers in an irregular situation employed in agriculture increased noticeably from 2018 to 2020. Out of 5,267 employees checked in 2018, 1,065 were found to be in an irregular situation (20.22 per cent), while in 2020, out of the 3,613 employees checked, 859 were found to be in an irregular situation (23.78 per cent). The Committee notes that the Government does not provide information as to the number of cases in which such workers have been granted their due rights. Regarding the manner in which it is ensured that labour inspectors treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provisions, the Committee takes note of the provisions of the Act CLXV of 2013 on complaints and whistleblowing, the Employment Supervision Act, and the Code of General Administrative Procedure which set out rules relating to the confidential processing of data. ***The Committee once again requests the Government to take measures to ensure that, in accordance with Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129, the additional functions assigned to labour inspectors do not interfere with the main objective of labour inspectors to ensure the protection of workers. In that regard, the Committee requests that the Government provide information on the proportion of labour inspectors' time that is spent on functions related to control of regularity of employment, including work permit regulation for third party nationals. In addition, the Committee requests the Government to provide further information on the manner in which the labour inspectorate discharges its primary duties in ensuring the enforcement of employers' obligations with regard to the statutory rights of workers found to be in an irregular situation (such as the payment of wages and any other benefits owed for the period of their effective employment relationship), especially in the context of the possibility of retroactive determination of the existence of a legal relationship provided for in the legislation. Noting the increased proportion of irregular***

workers employed particularly in the agricultural sector, the Committee reiterates its request that the Government provide specific information on the number of cases in which workers found to be in an irregular situation have been granted their due rights, such as the payment of outstanding wages or social security benefits.

Articles 10 and 16 of Convention No. 81 and Articles 14 and 21 of Convention No. 129. Number of labour inspectors and effectiveness of the labour inspection system. The Committee notes that the number of labour inspectors continued to decrease, from 368 in 2017 to 300 in 2021. At the same time the number of inspections conducted and violations detected also continued to decrease, from 14,298 inspections and 10,407 cases of irregularities in 2018 to 9,462 inspections and 6,649 cases of irregularities in 2020, and to 2,523 inspections and to 1,791 cases of irregularities in the first half of 2021. The Government indicates that the decline in the number of inspections in the years 2020 and 2021 are also attributable to consequences of the COVID-19 pandemic, reporting that employers suspended or reduced certain activities, and a substantial share of capacities of the occupational safety authority was allocated to investigation of suspected cases of occupational disease related to COVID-19. The Committee notes that the Government report and the labour inspection reports do not include statistics on accidents and diseases. **Noting the continuing decline in the number of inspectors as well as the decrease in the number of inspections and detected violations over a four-year period, the Committee once again requests that the Government take the necessary measures to ensure that the number of labour inspections are adequate to ensure the effective protection of workers. The Committee requests the Government to continue to provide statistical information on the number of labour inspectors, inspection visits, violations detected and penalties imposed. The Committee requests the Government to provide information on the number of occupational accidents and diseases.**

The Committee is raising other matters in a request addressed directly to the Government.

India

Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)

Previous comment

The Committee notes the observations made by the International Trade Union Confederation (ITUC) and by the Indian Central Trade Unions (ICTUs), both received on 1 September 2022, as well as the Government's reply to the latter. The Committee also notes that the Government had provided written information, on a voluntary basis, in its submission of 20 May 2021 in connection with the proceedings of the Committee on the Application of Standards (CAS).

Furthermore, the Committee notes that, in reply to the points raised in previous ITUC observations, the Government indicates that the ordinances amending the labour law, which were adopted by some of the states in 2020 in response to COVID-19, did not enter into force as the central Government, which has concurrent legislative competencies on labour matters, did not concur with any of them. With regard to the executive order by the Madhya Pradesh Government, which exempted the application of several provisions of the Factories Act, the Government informs that the order had a limited validity of three months and was not extended. In addition, the Committee welcomes the information that in the case of Gujarat, the decision to increase overtime hours from 8 hours to 12 hours a day, without payment of overtime, was struck down by the Supreme Court of India.

With regard to the direct contacts mission requested by the CAS in 2019, the Committee notes that in the context of the COVID-19 pandemic, the Government organized a series of digital technical meetings with the Office to address the issues raised in the CAS and in the Committee's observations. The meetings were attended by senior representatives of the Government and the management of the Standards Department. The Committee also notes that in its observations, ITUC calls on the Government

to accept a direct contacts mission of the ILO to assess the implementation of Convention No. 81 in law and in practice and to provide the necessary technical assistance.

Articles 2 and 4 of the Convention. Labour inspection in Special Economic Zones (SEZs). The Committee notes the observations by the ITUC and the ICTUs expressing continuing concern about a lack of effective labour inspection, with continuous violations in the SEZs. ITUC also expresses concerns over the fact that inspections are being carried out by development commissioners, who also have a responsibility to promote investment in the SEZs. Moreover, the ICTUs indicate that trade unions are restricted in entering the SEZs and filing complaints, and that they are not informed of inspections conducted in these zones.

The Committee also notes the indication by the Government that the powers of labour inspectors in SEZs have been delegated to development commissioners merely due to administrative difficulties, as some SEZs have jurisdiction over more than one state. The Committee further notes the information provided by the Government that the current administrative arrangements in SEZs do not impede the conduct of independent inspections and that the implementation of safety provisions related to factories still rests with specialized labour inspectors. Furthermore, the Committee notes the information that, according to office memoranda issued in May 2019 and June 2021 by the Ministry of Labour, the SEZs' development commissioners have been advised that labour inspections should take place without prior notice. Finally, the Committee notes the Government's indication, in response to the Committee's request for statistical data concerning the conduct of inspections in the SEZs, that in light of disruptions during the COVID-19 pandemic the requisite information will be made available after resumption of normalcy in industries.

Welcoming the information already provided and acknowledging the difficulties regarding the generation of meaningful data for the period 2020–21, in light of the COVID-19 pandemic, the Committee requests the Government to provide in its next report detailed statistical information on the number of labour inspectors responsible for inspections in these zones, the number of inspection visits (indicating the inspections conducted by labour inspectors and by development commissioners), the number and nature of offences reported and the number of penalties and amount of fines imposed, in addition to information on criminal prosecutions, if any. It also requests the Government to indicate in which SEZs inspection has been delegated to development commissioners, and how often inspections carried out by development commissioners take place without notice. Finally, the Committee requests the Government to indicate the number and nature of any complaints filed with respect to labour inspection in the SEZs, and whether trade unions have access to the SEZs where complaints have been filed and where they have not been.

Articles 4, 20 and 21. Availability of statistical information on the activities of the labour inspection services at the central and state levels. Availability of statistics in specific sectors. The Committee notes that in reply to the Committee's request for annual labour inspection reports, the Government refers to the annual reports of the Ministry of Labour and Employment published on its website, which contain statistical information on inspection activities at the central level (including the number of labour inspections, the number of irregularities detected, the number of prosecutions and convictions, as well as the number of accidents in mines). The Committee also notes the information provided by the Government on the development of the Shram Suvidha web portal at the Ministry of Labour and Employment, which is to facilitate reporting and submission of returns, and the Government's broader efforts to expand and improve the registration of workplaces through the Employees Provident Fund Organization (EPFO) website, in addition to efforts undertaken for the registration of workers in the informal sector, through the e-Shram portal. At the same time, the Committee notes the observations made by ITUC and the ICTUs that the statistical data provided does not allow for an assessment of the effective operation of the labour inspection services. The Committee also notes the Government's reply to these observations, with additional information on the digital initiative taken by the Government to facilitate reporting of inspections and augment transparency. Furthermore, the Committee notes the

Government's indication that it is actively undertaking an All India Survey on migrant workers, domestic workers and transport sector workers, which is to inform the development of policies for the welfare of those workers.

The Committee requests the Government to pursue its efforts to ensure that the central authority transmits to the ILO annual reports on labour inspection activities containing all the information required by Article 21. The Committee encourages the Government to continue its efforts towards the registration of workplaces and the improvement of its data collection system in all sectors, and requests that the Government keep the Committee updated on progress made in this regard. Further, the Committee requests the Government to indicate in what specific ways the data generated by its new digital initiatives are used by the labour inspection services for the planning of inspections.

Articles 10 and 11. Material means and human resources. The Committee notes the Government's indication in its report, that sufficient resources have been at the disposal of Central Labour Inspection agencies and State Governments, including adequate transport facilities or allowances, and that facilities like mobiles and laptops are being provided to inspection personnel by the respective state governments. However, the Committee also notes the continuing concern expressed by ITUC, in its observations, that the human and material resources of the labour inspectorate remain inadequate. ***The Committee requests the Government to provide updated information on the number of labour inspectors and more concrete information on the material resources and transport facilities of the labour inspection services.***

Articles 12 and 17. Free initiative of labour inspectors to enter workplaces without prior notice, and discretion to initiate legal proceedings without previous warning. The Committee notes the Government's response to the Committee's request for information as well as the concerns expressed by ITUC and the ICTUs in relation to certain provisions in the occupational safety and health (OSH) and Working Conditions Code of particular relevance to labour inspection, including the use of the term 'inspector cum facilitator' instead of 'inspector', which had been opposed by the central trade unions, and the distinction between 'inspections' and 'surveys', as referred to in the Codes. With regard to the term 'inspector cum facilitator', the Government explains that the addition of the word 'facilitator' points to efforts to strengthen the rights of workers by extending advice and support regarding compliance with various provisions of the Code. Regarding the legal provisions on the prior announcement of visits related to 'surveys', the Government explains that section 20 of the OSH and Working Conditions Code dealing with 'surveys' does not relate to inspections, but rather aims at allowing the government to conduct examinations of facilities and the testing of plant and machinery, outside the inspection system. Finally, in response to the concern expressed by the ICTUs that the web-based randomized inspections referred to in sections 34 and 37 of the OSH and Working Conditions Code may confine inspections to a randomly computer-generated list, the Government indicates that the web-based allocation of inspections does not impede the powers of labour inspectors to conduct free and independent inspections, based on the requisite intelligence. More broadly, the Committee notes the Government's indication that the recently introduced labour Codes do not compromise the powers of inspectors and that all inspections carried out by Central government are unannounced. The Government indicates that the OSH and Working Conditions Code does not envisage any restriction to the powers of labour inspectors to enter freely and without prior notice, at any hours of the day or night, any workplace liable to inspection, and that any guideline framed under the Code on Wages will not include instructions which are in violation of *Article 12(1)(a)* of Convention No. 81. The Committee notes nonetheless that the Government did not provide an answer to the question related to section 110 of the OSH and Working Conditions Code, according to which prosecution proceedings against an employer for any offence shall not be initiated by inspectors-cum-facilitators before an opportunity is given to the employer concerned to comply with relevant provisions of the Code within a period of thirty days from the date of notice, except for the case of an accident or a violation of the same nature repeated within a period of three years from the date on which the first violation was committed.

The Committee further notes that the Code on Wages provides that inspectors-cum-facilitators shall, before the initiation of prosecution for an offence, give employers an opportunity to comply with the provisions of the Code within a certain time limit (section 54(3)).

The Committee recalls that under *Article 17* of the Convention, with certain exceptions, persons who violate or neglect to observe legal provisions enforceable by labour inspectors shall be liable to prompt legal proceedings without previous warning, and that it must be left to the discretion of labour inspectors to give a warning or advice instead of instituting or recommending proceedings.

The Committee requests that the Government take the necessary measures to ensure that labour inspectors are able to initiate legal proceedings without previous warning, in conformity with Article 17 of the Convention. The Committee also requests the Government to transmit to the Committee examples of guidelines framed under the Code on Wages, as cited above, and examples of instances when inspectors-cum-facilitators have delayed or deferred inspections of establishments as well as examples when they have deferred initiation of prosecutions. Noting the Government's explanation regarding limitations on meaningful data collection over the past two years, due to the COVID-19 pandemic, the Committee requests that the Government provide detailed information in its next report on the number and nature of offences reported, the number of penalties and amount of fines imposed, and the criminal prosecutions initiated, if any.

The Committee is raising other matters in a request addressed directly to the Government.

Indonesia

Labour Inspection Convention, 1947 (No. 81) (ratification: 2004)

Previous comment

Articles 1, 4, 10 and 11 of the Convention. Impact of decentralization on the effective functioning of the labour inspection system. Number of labour inspectors and material means placed at their disposal. The Government indicates in its report that the Ministry of Manpower has a policy on increasing the number of labour inspectors, based on the Minister of Manpower Regulation No. 4 of 2017. It adds that in 2020, 1,694 labour inspectors (1,169 men and 525 women) were employed across 34 provinces in the country, with the district of East Java employing most labour inspectors (182). The Committee notes that this represents an increase in the number of inspectors in comparison to 2018 when 1,574 inspectors were reported but that this number is still lower than the 1,927 inspectors reported in 2016. With respect to the improvement of facilities and infrastructure, the Government indicates that it is encouraging local governments to allocate their regional funds for labour inspection facilities and infrastructure in their respective regions. The Committee notes that, in 2020, the Labour Inspection Committee made recommendations to the Ministry of Manpower in order to accelerate labour inspection reforms, to initiate centralized implementation of labour inspection, and to provide facilities and infrastructure that meet health standards and protocols that allow labour inspectors to carry out their duties and functions. ***The Committee once again requests the Government to take the necessary measures to ensure that labour inspectors are appointed in sufficient numbers, in accordance with Article 10 of the Convention. It requests the Government to provide information on the total number of appointed labour inspectors (disaggregated by gender), and the allocation of resources to labour inspection officers by the provincial and city/district levels of government. The Committee also requests the Government to provide detailed information on the measures taken to follow up with respect to the recommendations of the Labour Inspection Committee concerning labour inspection reforms, centralized implementation of labour inspection, and improvement of conditions of work of labour inspectors.***

The Committee is raising other matters in a request addressed directly to the Government.

Italy

Labour Inspection Convention, 1947 (No. 81) (ratification: 1952)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1981)

Previous comment

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

Article 3(1) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No. 129. Additional functions entrusted to labour inspectors related to immigration. The Committee previously noted the Government's indication on the actions taken by labour inspectors regarding the regularization of employment relationship of migrant workers in an irregular situation, as well as the related rights granted to them. The Committee also noted that inspection personnel shall notify the public security authorities of the presence of any irregular migrant workers, as "illegal entry to and residence in the State territory" remains a criminal offence.

The Committee notes that, according to the report of the Government, when inspections reveal failures to comply with contractual obligations, therefore creating financial credits for workers, the labour inspectors may, through a certified notice of findings, ensure the recovery of the credits (wages, social security, etc.) of the concerned workers, including foreign workers without regular residence permit. The Government indicates however, that the current system of collection of statistical data only allows for an overview of the total figures in this regard, without specific reference to workers without residence permit.

In reply to the previous Committee's comment, the Government also indicates that the current system for monitoring results of inspection activities by the National Labour Inspectorate's (INL) regional offices identifies the number of migrant workers without work permits encountered in the course of inspections (778 in 2020 and 739 in 2021), but does not record data specific to the delivery to those workers of the information sheet, introduced by the Interministerial Decree of 2007 and implementing section 1(3) of Legislative Decree No. 109/2012.

The Committee also notes that, pursuant to sections 18 and 22 (12-quater) of Legislative Decree No. 286/1998, residence permits may be granted to concerned workers in "special cases", for reasons of social protection and in cases of particular exploitation. The Committee notes that for granting such permit, the irregular migrant worker in an exploitative situation is required to file a complaint and cooperate in the criminal proceedings against the employer. The Committee also notes that according to section 22 (12-sexies) of the same Decree, this residence permit allows for work to be carried out and can be converted, upon expiry, into a residence permit for employment or self-employment. The Government indicates that this special residence permit is a useful tool to encourage migrant workers in an irregular situation to cooperate with inspection services, without fearing negative repercussions, such as losing their jobs or being deported. The Government also refers to inspection activities carried out within the three-year Plan against exploitation and gangmasters in Agriculture (2020–22), through two projects financed respectively by the European Commission (SU.PR.EME Italia) and the Ministry of Labour and Social Policy (A.L.T. Caporalato!). It states that the inter-provincial inspection task forces, the multi-agency working method and the collaboration between public and private entities contribute to improving the situation of migrant workers.

The Committee further notes that, as previously reported, the Government indicates that labour inspectors shall communicate the presence of migrant workers in an irregular situation to the public security authority and that illegal entry and stay in the country and the employment of workers without permit are defined as offences by sections 10bis and 22(12) of Legislative Decree No. 286/1998. **The**

Committee requests the Government to continue to provide information on the number of migrant workers in an irregular situation detected by labour inspectors and on the role of labour inspectors in informing migrant workers about their labour rights and in enforcing those rights, including: (i) improved data on the recovery of wage and social security credits specific to foreign workers without a residence permit; and (ii) the number of “special case” residence permits granted and a result of cooperation by those individuals with inspection services. It also requests the Government to provide information on the time and resources of the labour inspectorate that are allocated to the task of verifying the legality of the immigration status in practice as a proportion of inspectors’ overall time and resources.

The Committee is raising other matters in a request addressed directly to the Government.

Jamaica

Labour Inspection Convention, 1947 (No. 81) (ratification: 1962)

[Previous comment](#)

The Committee notes the observations of the Jamaica Confederation of Trade Unions (JCTU) and the Jamaica Employers Federation (JEF), received on 1 January 2022.

Article 12(1)(a) and (c)(ii) of the Convention. Unannounced visits. Production of documents. The Committee notes the Government’s indication, in response to the Committee’s previous request concerning measures to give effect to *Article 12(1)(a)* and *(c)(ii)*, that in accordance with the requirements under section 13(2)(b) of The Charter of Fundamental Rights and Freedoms (Constitutional Amendment) Act, 2011, any power of entry of labour officers should not prejudice the rights and freedoms of others. The Government adds that, in this connection, legislation requiring the power of entry by labour inspectors has to have provisions requiring reasonable notice before a proposed entry, except in circumstances where the officer has a search warrant.

The Committee also notes that the JEF is in agreement with the Government’s response and is particularly concerned about the proposed ability to enter premises at any time of the day or night. In addition, the Committee notes that, according to JCTU, in many reported circumstances, including in the construction industry, confining labour inspectors to giving notice before a proposed entry invalidates the intent of the inspection, as it facilitates the employer to artificially make adjustments or instruct responses that would affect the inspector’s assessment. The Committee further notes that, according to JCTU, similar powers of “unannounced entry” are afforded to other arms of Government in situations where this is deemed necessary. The Committee emphasizes that the conditions for the exercise of the right of free entry to workplaces set out in the Convention are intended to enable inspectors to carry out inspections of workplaces in order to enforce legal provisions relating to conditions of work. On this understanding, unannounced visits enable the inspector to enter work premises without warning the employer, especially in cases where the employer may be expected to attempt to conceal a violation by changing the usual conditions of work, preventing a witness from being present or making it impossible to carry out an inspection (see the [2006 General Survey on labour inspection](#), paragraph 263). ***The Committee therefore requests the Government to take concrete measures, including in the context of a possible adoption of the new draft OSH Bill, to ensure, in accordance with Article 12(1)(a) and (c)(ii) of the Convention, that labour inspectors provided with proper credentials are empowered to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection, and to require the production of any books, registers or other documents the keeping of which is prescribed by national laws or regulations relating to conditions of work, in order to see that they are in conformity with the legal provisions, and to copy such documents or make extracts from them.***

Article 13(2)(b). Measures with immediate executory force in the event of imminent danger to the health or safety of the workers. The Committee notes that the Government does not provide further information on this point. It notes that according to the information contained in the annual report of the Ministry of Labour and Social Security (MLSS) for 2017-2018, while the main operational activities of the Occupational Safety and Health Department (OSHD) focus on the administration of the Factories Act, 1943 and associated Regulations, other entities, including governmental organizations, are requesting the services of the OSHD to develop programmes and provide OSH auditing services. ***The Committee once again requests the Government to take prompt measures, including in the context of the drafting of the new OSH Bill, to ensure that labour inspectors are empowered to order measures with immediate executory force to eliminate imminent danger to the safety and health of workers in all industrial workplaces, and to provide information on the measures taken in this respect. It also requests the Government to provide statistical information on the preventive measures taken by labour inspectors with immediate executory force, in application of Article 13(2)(b) of the Convention.***

The Committee is raising other matters in a request addressed directly to the Government.

Japan

Labour Inspection Convention, 1947 (No. 81) (ratification: 1953)

Previous comments: [observation](#) and [direct request](#)

The Committee notes the observations of the Japanese Trade Union Confederation (JTUC-RENGO) communicated with the Government's report. It also notes the observations of the National Confederation of Trade Unions (ZENROREN), received on 31 August 2021.

Articles 3(1)(b) and 13 of the Convention. Preventive measures for workers engaged in decommissioning work and decontamination work with radioactive materials. The Committee takes note of the detailed information provided by the Government on the number of inspections carried out with respect to business operators engaged in decommissioning and decontamination work by the Fukushima Labour Bureau by 2019, and the number and nature of violations detected. In 2018 and 2019, the number of inspections for business operators increased in both decommissioning work (from 290 business operators to 325) and decontamination work (from 267 business operators to 338), while the percentage of those operators where violations were detected increased from approximately 53 per cent to 58 per cent in decommissioning work and increased from approximately 61 per cent to 67 per cent in decontamination work. The Committee notes the Government's additional comment that figures for 2018 and 2019 on decontamination work are not strictly comparable.

The Committee further notes that the number of inspections of business operators engaged in decontamination works has decreased substantially over a longer period (from 1299 in 2015 to 338 in 2019). In addition, since the earthquake in 2011, five business operators engaged in decommissioning work and 17 business operators engaged in decontamination work have been referred to the Public Prosecutor's Office by the Fukushima Labour Bureau. Such cases included a failure to provide notification without delay of industrial accidents to the director of the competent Labour Standards Inspection Office, and a case where the operator exposed workers to machine-related dangers in the decontamination work. The Government provides information on the causes of the violations and the details of the guidance given to the business operators engaged in decommissioning work at Fukushima Daiichi Nuclear Power Station and decontamination work in the Fukushima Prefecture. The Government indicates that, regarding the health and safety-related measures at workplaces, the percentage of violation is low in workplaces engaged in decommissioning work and higher in workplaces engaged in decontamination work. The Government provides guidance to prevent similar violations from occurring once corrective action has been confirmed, noting that such guidance is an

important measure to prevent exposure to ionizing radiation. With regard to health management-related violations, a certain number of workplaces engaged in decommissioning and decontamination work were found to be in violation of the requirement to monitor working hours in order to provide interview-guidance by doctors, an important measure to ensure the health of workers who work long hours. In addition, in many cases the submission of reports of ionizing radiation medical examination of radiation workers to the director of the Competent Labour Standards Inspection Office was neglected. The Government provides guidance to ensure that both requirements are met. With regard to labour management, the Government indicates that since there are many violations due to lack of understanding of laws and regulations, the contents of laws and regulations are carefully explained during supervision and guidance. The Government will continue to provide necessary guidance to business operators engaged in decommissioning work to ensure that safety and health measures are implemented in accordance with related laws and regulations. In addition, necessary guidance will be provided to intermediate storage facilities and operators carrying contaminated soil, with a focus on measures to prevent industrial accidents associated with work, as well as to operators carrying out decontamination work in Designated Site Areas for Reconstruction and Revitalization. ***The Committee requests the Government to continue to provide information on the causes of violations and the measures taken to secure the enforcement of applicable labour standards in decommissioning and decontamination works, the number of inspections undertaken, as well as the number and nature of violations detected in these areas. It also requests the Government to provide information on the reasons for the substantial decrease of inspections of business operators engaged in decontamination works from 2015 to 2019. The Committee reiterates its request that the Government provide information on the number of anonymous complaints and how often these result in detection of violations. The Committee requests the Government to provide detailed information on the outcome of the five cases related to decommissioning work and the 17 cases relating to decontamination work referred to the Public Prosecutor's Office, including the penalties applied.***

Articles 10 and 16. Sufficient number of labour inspectors. In reply to the Committee's previous request, the Government indicates that, as of March 2021, the number of labour standards inspectors increased by 90 from March 2017 to March 2021. The Committee notes that as of March 2021 there were 3,018 inspectors in total with 238 inspectors having been appointed in 2020 including 72 female inspectors. In this respect, the Government indicates that it aims to make the best efforts to ensure the number necessary to strengthen the Labour Standards Inspection Offices. The JTUC-RENGO highlights the importance of improving the system of labour standards supervisory organizations, including by increasing the number of labour standard inspectors even further to achieve continuous and active implementation of labour standards-related laws and regulations, including strict supervision and guidance to ensure compliance with relevant regulations restricting overtime work. The Committee notes that, although the Government reports an increase of labour standards inspectors, ZENROREN highlights the need for drastic expansion and improvement of the structure of labour administration's set-up involved in inspections, including by increasing the number of inspectors, technical officers and clerical workers in the office in order to ensure and improve the inspectors' working conditions. ***The Committee requests the Government to provide information on the specific measures taken to ensure that the number of labour inspectors is sufficient to secure the effective discharge of the duties of the inspectorate related to labour standards laws and regulations as well as other laws, and to continue to provide information on the number of labour inspectors, disaggregated by both prefecture and gender.***

Article 18. Safety of labour inspectors. Obstruction in the performance of their duties. The Committee notes that according to ZENROREN, an opinion survey conducted by the All-Labour Ministry Workers' Union (Zenrodo) on labour inspectors showed that more than half of the labour inspectors in Japan have at some point felt threatened or have experienced physical violence or intimidation. The respondents in their comments identified a series of incidents of violence most of which occur during inspection visits

of business offices on short notice rather than when meeting business owners in the Labour Standards Inspection Office. ZENROREN is of the opinion that when inspectors feel threatened or suffer physical violence, they are obstructed in the performance of their duties. It indicates, that, while in the past, inspection was conducted in principle by one inspector alone, from 2019, in view of the need to ensure inspectors' safety and to train younger inspectors, inspection is performed in teams. It highlights however the difficulties arising from the fact that some inspection offices have fewer than ten (some even only two inspectors) which makes it very difficult to send more than one inspector to a business establishment at a time. ***The Committee requests the Government to provide its comments in relation to the observations related to violence, harassment and other external pressure faced by labour inspectors. It requests the Government to provide detailed information on cases of aggression against labour inspection staff and on the judicial follow-up to such situations, and also to provide details of penalties imposed under this Article in cases of obstruction of labour inspectors in the performance of their duties. The Committee requests the Government to provide information on the measures taken to ensure the safety of labour inspectors and the effective discharge of their duties in cases of obstruction.***

The Committee is raising other matters in a request addressed directly to the Government.

Kenya

Labour Inspection Convention, 1947 (No. 81) (ratification: 1964)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1979)

[Previous comment on Convention No. 81](#)

[Previous comment on Convention No. 129](#)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

Articles 3(1), 4 and 5(b) of Convention No. 81 and Articles. 6(1), 7 and 13 of Convention No. 129. Structure of the labour inspection system, cooperation between inspection services and supervision and control by a central authority. In its previous comments, the Committee noted the absence of an individual or a department with oversight responsibility for the various inspection activities, as well as the limited cooperation between the two inspection systems under the Department of Labour (DOL) and the Department of Occupational Safety and Health (DOSH). In its report, the Government indicates that the two inspectorate services under the DOL and the DOSH were placed under a common oversight authority, the State Department of Labour, which is also the central authority for purposes of reporting. The Committee also notes that the Government refers to the development of more measures to centralise supervision and control of both departments but does not indicate whether the post of chief inspector has been established and filled. ***Therefore, the Committee requests the Government to provide information on additional measures taken toward the centralization of supervision and control of the two inspection systems, including the possibility of placing labour inspection under the responsibility of one chief inspector who would be responsible for the overall coordination of the Ministry of Labour's inspection services. In this respect, it requests the Government to indicate whether the post of chief inspector has been established and filled.***

Articles 10, 11 and 16 of Convention No. 81 and Articles 14,15 and 21 of Convention No. 129. Lack of human and material resources and appropriate means of transport. Efficiency of inspections. In its previous comments, the Committee noted that the resource constraints in budgetary allocation led to a lack of inspectorate staff, lack of material resources, including facilities, and lack of transport, which affected the efficient delivery of labour inspection services, including in the agricultural sector. It further noted

that the civil service was undergoing a reform and that subsequently, understaffed and under-resourced departments would benefit from the deployment of personnel from overstaffed agencies. In its report, the Government indicates that it has put in place measures to boost institutional capacity of the inspectorates to enhance resource allocation and effective enforcement of laws. The Committee notes that 40 officers were employed by the Ministry at the entry level of its inspectorate service in both the DOL and the DOSH in 2017. It further notes that the inspectorate staff has designated authorized officers under section 35 of the Labour Institutions Act (powers of labour officer), but the Government does not indicate the number of the nominated officers and the time of their appointment. The Committee notes the Government's indication that the geographical distribution of the inspectorate staff to all 47 counties aims at ensuring adequate representation and coverage of all sectors. The Government indicates that the labour inspectorate staff are provided with operational offices fully equipped for administration purposes and for the effective performance of their duties. Furthermore, according to the Government, staff reimbursements are adequately provided on instances where the labour inspectors need to use their own funds for the performance of their duties. However, the Committee notes that due to continued funding problems, the challenge remains of inadequate transport, in terms of required vehicles that would allow for movement to the various vast regions of the country. ***The Committee requests the Government to continue to provide information on the measures taken or envisaged, including within the framework of the civil service reform, to ensure that the number of labour inspectors is sufficient to secure the effective discharge of the duties of the inspectorate. It requests the Government to provide detailed information on the number of labour inspectors working for the DOL and the DOSH, indicating their years of experience, areas of specialization, and geographical distribution. Noting the funding constraints, the Committee requests the Government to provide information on the steps taken or envisaged to ensure that the labour inspectorate is provided with the material resources and transport facilities necessary for the effective performance of their duties.***

The Committee is raising other matters in a request addressed directly to the Government.

Kyrgyzstan

Labour Inspection Convention, 1947 (No. 81) (ratification: 2000)

Previous comment

Articles 12, 16, 17 and 18 of the Convention. Limitations and restrictions of labour inspection. Effective enforcement of penalties for labour law provisions. 1. Moratorium on labour inspections. Further to its previous comments on this matter, the Committee takes due note that the moratorium on inspections has expired on 1 January 2022. In this regard, it notes that Government Decision No. 586 of 2018 on the introduction of a temporary ban on the inspection of economic entities was declared null and void by virtue of Resolution of the Cabinet of Ministers No. 9 of 14 January 2022 on the invalidation of certain decisions of the Cabinet of Ministers (section 1, Annex, paragraph 2836). It also notes that the annual reports on the work of the labour inspectorate covering the period 2019–20 provide detailed statistics on the number of inspection visits carried out during the reference period.

The Committee also notes that the labour inspection system has been reorganized as set out in the Regulations on the Service for Control and Supervision of Labour Legislation under the Ministry of Labour, Social Security and Migration, approved by Government Decision No. 317 of 17 December 2021. According to these Regulations, the Service for Control and Supervision of Labour Legislation is now the body authorized to perform the functions of state supervision and control of compliance with labour legislation (sections 1 and 10). The Committee observes that, according to section 11(7) of Law No. 72 of 2007 on the conduct of inspections in enterprises, in exceptional cases the Government has the right to introduce a temporary ban (moratorium) on conducting inspections in order to improve the economic

situation. **Recalling that a moratorium placed on labour inspection would substantially undermine the inherent functioning of the labour inspection system and would be contrary to the provisions of the Convention, the Committee urges the Government to take all necessary measures to amend the legislation and to ensure that no moratorium on labour inspections be placed in the future and that labour inspectors are able to undertake labour inspections as often and as thoroughly as is necessary to ensure the effective application of the legal provisions, in compliance with Article 16 of the Convention.**

2. *Other limitations on labour inspection.* The Committee has repeatedly referred to the serious limitations on the powers of labour inspectors and on the undertaking of labour inspections set forth in Law No. 72 of 2007 on the conduct of inspections in enterprises. The Committee notes with **deep concern** that such limitations remain in force. It also notes the Government's indication concerning the provision of administrative penalties for violations of labour legislation contained in the Code of Offences, which was adopted on 28 October 2021 by Law No. 126. In this respect, it notes that sections 87 to 93 of this Code provide for fines for violations of the legal provisions relating to conditions of work and the protection of workers while engaged in their work. The Committee notes that, despite the adoption of the Code of Offences, which penalizes violations to labour legislation, labour inspections continue to be hampered by the limitations established by Law No. 72 of 2007. Therefore, the effective enforcement of the penalties set out in sections 87 to 93 of the Code of Offences is also undermined.

Furthermore, the Committee notes with **deep concern** that the Government refers once again to its statements made in 2019, concerning the status quo of labour inspection in the country asserting that, under Law No. 72, the authorized state body may carry out unplanned on-site inspections only after the Ministry of Economy has given its consent, that this is the only form of inspection during which labour inspectors can check that employers comply with the requirements of labour legislation, and that if the organization has a qualified lawyer, any inspection with prior notice or limited to a review of documents provided by the employer has almost no chance of identifying actual breaches of labour legislation, even if they are serious.

Lastly, the Committee notes the information provided by the Government on the inventory and revision of laws carried out by the inter-agency expert group by virtue of Presidential Decree No. 26 of 8 February 2021 on the Conduct of an Inventory of the Legislation. **With reference to its 2019 general observation on the labour inspection Conventions, the Committee urges the Government to bring its national legislation into full conformity with the Convention. Specifically, it requests the Government to take prompt measures to ensure that labour inspectors are empowered to make visits to workplaces liable to inspection without previous notice, in conformity with Article 12(1)(a) of the Convention, that they are able to undertake labour inspections as often and as thoroughly as is necessary to ensure the effective application of the legal provisions, in conformity with Article 16 of the Convention, and that they are able to initiate or recommend immediate legal proceedings without prior warning, where required, in conformity with Article 17 of the Convention.**

In this connection, the Committee requests the Government to provide information on the measures taken in order to ensure the amendment of Law No. 72 of 2007 on the conduct of inspections in enterprises, including consideration given to this issue within the National Tripartite Commission and in the context of the inventory and revision of laws carried out by the inter-agency expert group. It further urges the Government to intensify its efforts to ensure the effective enforcement of penalties for violations of the legal provisions enforceable by labour inspectors as set out in the Code of Offences, in conformity with Article 18 of the Convention. In addition, the Committee requests the Government to provide statistics regarding the number of inspection visits undertaken by labour inspectors without previous notice, as compared to inspection visits undertaken with prior notice, as well as statistics on the number of penalties effectively enforced.

Article 13(2)(b). Measures with immediate executory force to ensure the safety and health of workers. Further to its previous comments, the Committee notes the Government's reference to the inventory of policy frameworks, strategies, programmes and laws carried out by the inter-agency expert group by virtue of Presidential Decree No. 26 of 2021 on the conduct of an inventory of the legislation, as well as its indication that the public authorities are actively working to improve legislation, which will include revising existing laws. The Committee notes, however, that no concrete measures have yet been taken to empower labour inspectors to issue orders requiring measures with immediate executory force in case of imminent danger to the health and safety of workers. It also notes the information contained in the annual reports, according to which, in the period from 2018 to 2020, there were 75 fatal accidents. ***The Committee therefore urges the Government to intensify its efforts to bring the national legislation into conformity with Article 13(2)(b) of the Convention. In addition, it requests the Government to provide information on the number of orders requiring measures with immediate executory force issued by labour inspectors per year and to indicate the cause and outcome of such orders.***

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2023.]

Lebanon

Labour Inspection Convention, 1947 (No. 81) (ratification: 1962)

Previous comment

The Committee notes with **deep concern** that the Government's overdue report on Convention No. 81 has not been received. In light of its urgent appeal launched to the Government in 2021, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

Article 3(1) and (2) of the Convention. Primary functions and additional duties of labour inspectors.
1. *Supervision of union matters.* The Committee previously noted that, pursuant to section 2(c) of Decree No. 3273 of 26 June 2000, the labour inspectorate has the power to monitor vocational organizations and confederations at all levels in order to check whether the latter, in their operations, are exceeding the limits prescribed by law and by their rules of procedure and statutes. It recalls that for many years it had requested the Government to take steps to limit labour inspectors' intervention in internal trade union affairs. The Committee also noted the Government's reply in its report received in 2016 that the role of labour inspectors is limited to accessing union records, and only in cases where a union submits its final account or if a union council member files a complaint. The Committee nevertheless wishes to recall that, according to *Article 3(1)* of the Convention, the primary functions of the labour inspection system shall be to monitor and secure the conditions of work and the protection of workers while engaged in their work, and that in accordance with *Article 3(2)*, any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties or to prejudice in any way the authority or impartiality of inspectors in their relations with employers and workers. In this respect, the Committee had expressed reservations in its [2006 General Survey on labour inspection](#), paragraph 80, regarding an excessively close supervision by labour inspectors of the activities of trade unions and employers' organizations, to the extent that it may amount to interference in these organizations' legitimate activities. ***The Committee urges the Government once more to take the necessary steps to ensure that the functions assigned to labour inspectors do not interfere with the main objective of labour inspection, which is to provide for the protection of workers in accordance with Article 3(1) of the Convention. In this respect, it urges the Government to ensure that any supervision of trade union activities is carried out only in relation to the protection of the rights of trade unions and their members and does not take the form of interference in their legitimate activities and internal affairs.***

2. *Work permits for migrant workers.* While noting information in the 2022 follow-up Labour Force Survey for Lebanon concerning a possible out-migration of migrant workers, particularly domestic workers, from Lebanon since 2018, the Committee also notes indications provided by the ILO Decent Work Technical Support Team that the system for monitoring work permits through the labour inspectorate has remained unchanged in its essence. ***The Committee requests the Government to take measures to ensure that the functions assigned to labour inspectors to monitor work permits do not interfere with the main objective of labour inspection to secure the enforcement of legal provisions relating to conditions of work and the protection of workers, as required under Article 3(1) of the Convention. It requests the Government to provide information on the time and resources spent on labour inspection activities related to the issuance, renewal, and inspection of work permits, compared to activities aiming at the enforcement of legal provisions relating to conditions of work and the protection of workers.***

Article 12(1) and (2). Right of inspectors to enter freely any workplace liable to inspection. In its previous comments, the Committee requested the Government to amend Memorandum No. 68/2 of 2009, which requires prior authorization in writing for all unscheduled inspection visits, although according to section 6 of Decree No. 3273 of 2000 on Labour Inspection, labour inspectors shall have the authority to enter freely and without prior notice all enterprises under their supervision during hours of work at the enterprise. The Committee also noted the Government's indication in its report received in 2016 that written authorization is provided in order for an inspection to be carried out, and that inspections are carried out as part of an inspector's annual or monthly programme. In this regard, the Committee recalls once more *Article 12* of the Convention, which provides that labour inspectors provided with proper credentials shall be empowered to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection. It recalls that the requirement to obtain prior permission to undertake an inspection in all cases constitutes a restriction on the free initiative of inspectors to undertake an inspection, including where they have reason to believe that an undertaking is in violation of the legal provisions. ***The Committee urges the Government to take measures to amend Memorandum No. 68/2 of 2009 to ensure that labour inspectors provided with proper credentials are empowered to enter freely any workplace liable to inspection, in accordance with Article 12(1) of the Convention, and to provide copies of any texts or documents showing progress in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Lithuania

Labour Inspection Convention, 1947 (No. 81) (ratification: 1994)

Previous comment

Article 3(1) and (2) of the Convention. Additional functions entrusted to labour inspectors. Labour inspection activities in the area of irregular work. In its previous comments, the Committee requested the Government to provide information on the actions undertaken by the labour inspectorate and the judicial authorities to ensure the enforcement of employers' obligations with regard to the statutory rights of workers found, in the course of inspections, to be working irregularly. The Committee notes the Government's indication regarding a series of activities aiming at the prevention and control of illegal work, undeclared work, undeclared self-employment and violations of the procedure for employing third-country nationals. The Committee notes in this respect that in 2020, the state labour inspectorate (SLI) carried out 4,161 inspections focused on illegal work, which resulted in the detection of 1,794 workers who were working illegally. The Government indicates that in 2020 the SLI undertook a series of consultations with employers, workers and their representative organizations on the issue of illegal work, focusing on the activities of small and medium-sized enterprises and first-year entities. The Government also provides details on the inspections of entities in the areas of the highest risk of

breaching the requirements of occupational safety and health and labour legislation and reports the establishment of inspection groups specialised in controlling illegal labour.

The Committee notes that the Government does not provide information on cases in which the statutory rights of workers found to be working irregularly have been reinstated. In addition, the Committee notes that section 56 of the Law on Employment provides for measures to be taken by labour inspectors in cases of illegal work. The Committee further notes that according to this section, when such cases concern foreign workers, the labour inspectors request the employer to terminate the labour relations and notify the immigration authorities. The Committee recalls that the function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of labour inspection, which is to protect the rights and interests of all workers and to improve their working conditions (see [2006 General Survey on labour inspection](#), paragraph 78). In this respect, the Committee also recalls that workers in a vulnerable situation may not be willing to cooperate with the labour inspection services if they fear negative consequences as a result of inspection activities (see [2017 General Survey on instruments concerning occupational safety and health](#), paragraph 452). ***The Committee requests the Government to take measures to ensure that the functions assigned to labour inspectors with regard to irregular work do not interfere with the main objective of labour inspectors to ensure the protection of workers in accordance with labour inspectors' primary duties as set forth in Article 3(1) of the Convention. It requests the Government to provide information on the time and resources that are allocated to the prevention and control of illegal or undeclared work as a proportion of inspectors' overall time and resources. It once again requests the Government to indicate how the SLI ensures the enforcement of employers' obligations with regard to the statutory rights of the workers found to be working irregularly, including migrant workers.***

The Committee is raising other matters in a request addressed directly to the Government.

Madagascar

Labour Inspection Convention, 1947 (No. 81) (ratification: 1971)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1971)

Previous comments: [observation](#) and [direct request](#)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee notes the observations of the General Confederation of Workers' Unions of Madagascar (FISEMA) and the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE), received on 1 September 2022.

Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. Additional duties of labour inspectors. Further to its previous comment, the Committee notes the Government's indication that labour inspectors are making efforts to discharge duties other than their primary duties. The Committee notes the observations of FISEMA in this regard that the predominance of mediation and conciliation activities within the labour inspection services is to the detriment of inspections in enterprise, thereby giving employers more power to act as they wish in matters of industrial relations and occupational safety and health standards. The Committee recalls that, in accordance with *Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129*, any further duties entrusted to labour inspectors, including conciliation, should not be such as to interfere with the effective discharge of their primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers. ***The Committee once again requests the Government to take the***

necessary steps without delay to ensure that, in accordance with Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129, duties other than primary duties assigned to inspectors do not interfere with the performance of the latter. It also requests the Government to provide detailed information on the time and resources dedicated to conciliation and mediation activities carried out by the labour inspectors, by percentage of total time and resources that inspectors dedicate to the discharge of their primary duties.

Articles 6, 10 and 11 of Convention No. 81 and Articles 8, 14 and 15 of Convention No. 129. Status and conditions of service of labour inspectors and controllers. Resources at the disposal of the labour inspectorate. Further to its previous comment, the Committee notes that the Government indicates that the protocol agreement signed on 10 April 2015 between the Ministry of Economy and Finance and the Autonomous Trade Union of Labour Inspectors (SAIT) providing for a compensation award in connection with the duties of labour inspectors has no legal scope because the decree issuing the regulations on compensation has not been adopted. While noting the Government's indication that the draft review of the General Civil Service Regulations has been delayed because of the priority given to the fight against COVID-19, the Committee notes with **regret** that no information has been provided on the adoption of special regulations for labour inspectors and controllers as part of this review. The Government also indicates that it is endeavouring to maintain dialogue with the labour inspectors' union and that efforts are being made to improve their conditions of service by increasing the material resources available to them, in particular through the provision of work vehicles for the regional labour directorates, computer equipment and the construction of administrative buildings for use as offices. The Committee notes that the staff numbers in the labour inspectorate have risen from 128 labour inspectors in 2017 to 189 inspectors and 193 controllers on duty in 2021, and that four regional departments are now equipped with work vehicles, namely Analamanga, Atsinanana, Diana and Upper Matsiatra. In this regard, the Committee notes the observations of FISEMA that the labour inspection services in industry and trade still suffer from insufficient human and material resources, which affects their effectiveness. In addition, despite announcements by successive governments to establish a labour inspection system in the agricultural sector, no specific information or draft text has been received by the trade union organizations, while fundamental rights, social protection, freedom of association and equality of treatment and remuneration of agricultural workers are not fully guaranteed, as the majority of them work in the informal economy. ***Recalling that Article 6 of Convention No. 81 and Article 8 of Convention No. 129 provide that inspection staff shall be composed of public officials whose status and conditions of service assure them stability of employment and make them independent of changes of government and of improper external influences, the Committee urges the Government to take the necessary measures, without delay, including the adoption of staff regulations specifically for labour inspectors and controllers in the context of the draft review of the General Civil Service Regulations. The Committee also requests the Government to continue to intensify its efforts to increase the resources at the disposal of labour inspectors and to provide information on the specific measures taken in this respect, including for inspection in the agricultural sector. It also requests the Government to continue to provide information on the number of labour inspectors, resources and means of transport assigned to the labour inspection services.***

Article 7(3) of Convention No. 81 and Article 9(3) of Convention No. 129. Training for labour inspectors. Further to its previous comment, the Committee notes the Government's indication that the General Labour Directorate has undertaken to organize training to strengthen the capacities of labour inspectors to ensure that inspection activities reach all current branches of activity. In this context, the introduction of a subject on inspection in the agricultural sector for labour inspectors in training at the National School of Administration of Madagascar (ENAM) is especially necessary. The Committee notes that under Order No. 10989/2021 on the opening of a direct competition and a vocational competition, the number of inspectors in training at ENAM has been doubled (from 25 to 50) to cover all activity sectors, including the agricultural sector. It also notes the subjects and the programme of the direct

competition and the vocational competition, in the annex to the above-mentioned Order but notes, however, that the Government has not provided any information on further training of labour inspectors. **The Committee therefore once again requests the Government to take the necessary measures to ensure further training for labour inspectors, and to provide information on the duration of the training, the number of participants and the subjects covered. It also requests the Government to intensify its efforts to provide labour inspectors with specialized agricultural training.**

Articles 19, 20 and 21 of Convention No. 81 and Articles 25, 26 and 27 of Convention No. 129. Submission of periodic reports to the central inspection authority. Preparation, publication and transmission of the annual inspection report. Further to its previous comment, the Committee notes the Government's indication that the results of labour inspection activities and inspection reports are submitted periodically (quarterly and annually) to the central inspection authorities. The Committee notes the observations of FISEMA that the production of activity reports is still lacking, despite their previous observations in this respect. **The Committee urges the Government to take all necessary measures to ensure the preparation and publication of an annual report on the work of the labour inspection services, in accordance with Article 20 of Convention No. 81 and Articles 25 and 26 of Convention No. 129, and to take the necessary steps to ensure that these reports contain information on all the subjects listed in Article 21 of Convention No. 81 and Article 27 of Convention No. 129.**

The Committee is raising other matters in a request addressed directly to the Government.

Malta

Labour Inspection Convention, 1947 (No. 81) (ratification: 1965)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1988)

Previous comment

In order to provide a comprehensive view of the issues relating to the application of ratified conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

Articles 6, 10 and 16 of the Convention No. 81 and Articles 8, 14 and 21 of Convention No. 129. Numbers of labour inspectors and inspection visits. Conditions of employment. The Committee notes that in reply to its previous request concerning the decrease in the number of inspections, the Government indicates that the Department of Industrial Relations and Employment (DIER) carried out 1,022 inspections in 2019, 854 during 2020 and 1,107 between January and July 2021. The Committee also notes that with regard to its previous request concerning the condition of service of labour inspectors, the Government indicates that these conditions recently changed in order to retain staff by providing more opportunities for advancements. The Committee notes the Government's indication that there are currently ten inspectors and two overseeing managers within the DIER. The Committee notes that the staff composition of the DIER is the same as in 2019. The Committee also notes that according to the Government report, the inspectors of the Occupational Health and Safety Authority (OHSA) decreased from 14 to 12 from 2020 to 2021. **The Committee requests the Government to provide details of the changes that have occurred in the conditions of service of labour inspectors and to indicate how such changes may serve to attract and retain a sufficient number of motivated staff. In this regard, the Committee requests comparative information on the remuneration scale and opportunities for advancement of labour inspectors in relation to other categories of government employees exercising similar functions, such as tax inspectors or police officers. The Committee also requests the Government to provide information on the reasons for the decrease in staff in the OHSA. In addition, the Committee requests the Government to continue to provide information on the number of labour**

inspectors working at the DIER and at the OHSA, as well as the number of inspections undertaken by these entities.

The Committee is raising other matters in a request addressed directly to the Government.

Morocco

Labour Inspection Convention, 1947 (No. 81) (ratification: 1958)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1979)

[Previous comment on Convention No. 81](#)

[Previous comment on Convention No. 129](#)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee notes the observations of the Democratic Confederation of Labour (CDT) and the National Union of Labour in Morocco (UNTM), transmitted with the Government's reports in 2017 concerning both Conventions.

Article 3(1) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No. 129. Additional duties of labour inspectors. Further to its previous comment, the Committee notes that, according to the information contained in the annual labour inspection report in Morocco 2020 - 2021, labour inspectors play a very important role in the resolution of individual and collective disputes, under sections 532 and 551 of the Labour Code. In 2021, labour inspectors carried out 24,860 inspections compared to 33,362 in 2018. In addition, only 991 inspections were carried out in occupational safety and health, compared to 2,488 in 2018. However, labour inspectors examined 56,509 individual disputes and took measures to prevent the outbreak of 1,234 collective disputes in 2021. The UNTM indicates in its observations that the function of conciliator is performed to the detriment of law enforcement, and therefore tends to exacerbate the number of individual and collective labour disputes.

The Committee notes that the time spent by labour inspectors on conciliation may be to the detriment of the performance of their primary duties, especially when resources are limited. In this respect, the Committee recalls that, according to *Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129*, other duties entrusted to labour inspectors should not interfere with the performance of their primary duties. ***The Committee requests the Government to take the necessary measures to remedy this situation and to ensure that, in accordance with Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129, the additional functions of conciliation entrusted to labour inspectors do not interfere with the performance of their primary duties. In this respect, it requests the Government to continue to provide information on the time spent on the primary duties within the meaning of Article 3(1) of Convention No. 81 and Article 6(1) of Convention No. 129 in relation to the other functions of labour inspection.***

Article 6 of Convention No. 81 and Article 8 of Convention No. 129. Independence of labour inspectors of improper external influences. The Committee notes the Government's indication in its report that, between 2014 and 2016, there were six legal proceedings against labour inspectors' decisions and reports under section 17 of Dahir No. 1-58-008 on the general statute of the public service, one of which had been resolved by court of first instance with an acquittal, and the other five of which were before the competent courts. ***The Committee requests the Government to continue to provide detailed information on the practical application of section 17 of Dahir No. 1-58-008, in particular on the legal proceedings undertaken against labour inspectors in recent years (alleged offences, legal provisions invoked, duration of proceedings and so forth) and their outcome. It also requests the Government to***

specify the criminal penalties that labour inspectors may face relating to actions or measures taken in the performance of their duties, as well as the corresponding legal provisions that provide for such penalties.

Articles 12 and 15(c) of Convention No. 81 and Articles 16 and 20(c) of Convention No. 129. Confidentiality regarding the source of complaints during inspections; inspections without prior notice. The Committee notes that the Government has not provided any new information in this regard. **The Committee therefore once again requests the Government to take measures to introduce a specific legal obligation of confidentiality, by providing that labour inspectors shall treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provisions and shall give no intimation to the employer or his representative that a visit of inspection was made in consequence of the receipt of such a complaint, as stipulated in Article 15(c) of Convention No. 81 and Article 20(c) of Convention No. 129. Recalling that confidentiality is only possible in practice if the inspection method used includes a considerable number of routine inspections, the Committee once again requests the Government to provide statistics on the number of inspections, indicating the type of each inspection (routine visits, visits to monitor the application of enforcement orders, visits pursuant to a complaint and so forth).**

Articles 13, 17 and 18 of Convention No. 81 and Articles 18, 22, 23 and 24 of Convention No. 129. 1. *Prosecution of violations and effectively applied penalties.* Further to its previous comment, the Committee notes that, according to the statistics contained in the 2020–21 inspection report, the number of reports drawn up remains low compared to the number of violations detected. In 2021, there were 227,830 observations on the application of the legislation in the industry, trade and services sectors, with 76 reports drawn up noting 1,094 violations. The Committee also notes the observations of the CDT that there is a lack of follow-up to reports of violations. In addition, the UNTM indicates in its observations that there is a lack of information on the follow-up to legal actions and to the various obstacles to the performance of inspectors' duties. **The Committee requests the Government to continue to provide statistical information on the observations made, the violations noted and the reports drawn up by labour inspectors. It also requests the Government to provide further information on the follow-up to these observations in cases where reports are not drawn up, including areas of compliance that were addressed and remedies applied, and the penalties imposed.**

2. *Supervisory activities of inspectors in agriculture and action taken on safety and health injunctions and breaches of the legislation.* Further to its previous comment on Convention No. 129, the Committee notes that the Government does not provide any information on the action taken on safety and health injunctions and breaches of the legislation, including for failure to execute injunctions issued to eliminate risk to the workers' safety and health (section 543 of the Labour Code), or the recommendation (section 545 of the Labour Code) for the prosecution of employers in breach of the regulations or an order to take preventive action. **The Committee once again requests the Government to provide information on the results of the exercise of labour inspectors' powers of injunction and of initiating legal proceedings, as defined in the above legislation.**

The Committee is raising other matters in a request addressed directly to the Government.

Netherlands

Labour Inspection Convention, 1947 (No. 81) (ratification: 1951)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1973)

Previous comment

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee notes the joint observations of the Netherlands Trade Union Confederation (FNV) and the National Federation of Christian Trade Unions (CNV) on Convention No. 81, received in 2021, which reiterate the observations of the FNV, CNV and the Trade Union Federation for Professionals (VCP) received in 2017 and refer to the additional matters addressed below.

Articles 3, 10 and 16 of Convention No. 81 and Articles 6, 14 and 21 of Convention No. 129. Number of labour inspectors and the frequency of labour inspections to ensure the effective discharge of inspection duties. Workload of labour inspectors. Time spent on administrative tasks. Further to its previous comment on ensuring a sufficient number of labour inspectors and inspections to achieve adequate coverage of workplaces liable to inspection, the Committee notes that the Government indicates in its report that: (i) given the lack of information on the capacity of the labour inspectorate, in 2017 the inspectorate started with the Inspection Control Framework (ICF), which allows it to focus on certain risks or subjects, determine what it requires in terms of capacity (financially) to cover the chosen focus, as well as to use risk-based supervision and to be result-oriented; (ii) also in 2017, the coalitions parties in the Parliament made 50 million euros per year progressively available for strengthening the enforcement chain of the labour inspectorate in accordance with the ICF; (iii) between 2018 and 2020, the available resources of the labour inspectorate were mostly used for the recruitment, selection and supervision of new labour inspectors and investigators; (iv) in 2019 and 2020, the labour inspectorate had 1,335 and 1,348 full-time labour inspectors, respectively, and it is projected to grow to 1,541 full-time labour inspectors by the end of 2022 and to be at full capacity in 2023; and (v) in 2019 and 2020, 11,744 and 15,462 inspection visits were carried out, respectively. The Committee also notes the Government's indication that the labour inspectorate currently pursues four goals under the ICF, namely: (a) restoring the balance between reactive investigations and active prevention-oriented inspections in the field of OSH; (b) increasing the proportion of joint inspections of companies falling under the legislation relating to the control of major hazards involving dangerous substances; (c) increasing the extent to which the labour inspectorate works in an information-driven way; and (d) increasing the inspection coverage of fair working conditions. **The Committee requests the Government to provide detailed information on the implementation of the Inspection Control Framework, the achievement of each of its four goals and its concrete impact on the work of the labour inspectorate, including on the inspectorate's capacity to carry out its primary functions as set forth in Article 3(1) of Convention 81 and Article 6(1) of Convention 129, and to inspect workplaces with the necessary frequency and thoroughness. Noting the above-mentioned increase in the number of labour inspectors, it requests the Government to continue to provide information on the total number of labour inspectors, inspection visits, workplaces liable to inspection and workers employed therein, violations detected and penalties imposed, as well as on the number of industrial accidents and occupational diseases. The Committee requests the Government to specify in the requested information the statistics relating to the agricultural sector.**

Furthermore, the Committee notes the information provided by the Government in reply to its previous comment on the meaning of the term "social impact" of the work of the labour inspectorate, which implies that the labour inspectorate tries to enforce regulations at workplaces where the risks are the highest and that by eliminating the highest risks it makes sure that the main harm is taken care of.

In this regard, the Committee recalls that the report of the tripartite committee adopted by the Governing Body at its 322nd Session (November 2014) concerning the representation made under article 24 of the ILO Constitution relating to Conventions Nos 81 and 129 and the Occupational Safety and Health Convention, 1981 (No. 155) requested the Government to ensure that the number and frequency of labour inspections is sufficient to ensure the effective discharge of inspection duties and compliance with the respective legal provisions in all workplaces, including enterprises that are not considered to be in high-risk sectors and small enterprises (paragraph 137). **The Committee requests the Government to provide information on the measures adopted or envisaged to ensure that non-high-risk workplaces and small enterprises are inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions.**

Lastly, with regard to the administrative tasks entrusted to labour inspectors, the Committee takes note of the Government's information indicating that multiple measures have been taken to facilitate labour inspectors in administrative tasks, such as the provision of standardized formats for letters and fine reports, the deployment of senior inspectors as peer review of, or support for, other inspectors in the drafting of reports, as well as the establishment of an inspection support desk ("Inspectieondersteuning") which assists inspectors in the administrative preparation of inspection projects by refining information, conducting preliminary research and selecting the correct addresses of companies to be inspected. The Government also indicates that the adoption of measures to facilitate the work of inspectors will continue to be one of the focuses of the labour inspectorate. **The Committee takes note of the information provided and it requests once again the Government to specify the proportion of time spent by labour inspectors on administrative tasks, in relation to the primary functions of labour inspection.**

Article 3(1) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No. 129. Functions of labour inspectors with regard to foreign workers. Further to its previous comment on inspections performed in conjunction with the police department that deals with residency issues, the Committee notes that the Government indicates in its report that when working jointly with the police department, while the police investigates whether there are migrants in an irregular situation, the labour inspectorate is concerned with compliance of the labour legislation with respect to migrant workers, who are entitled to fair work and wages irrespective of their legal status. The Committee recalls that the involvement of inspection staff in joint operations with the police is not conducive to the relationship of trust that it is essential to enlisting the cooperation of employers and workers. Workers in a vulnerable situation may not be willing to cooperate with the labour inspection services if they fear negative consequences as a result of inspection activities, such as being fined, losing their job or being expelled from the country. **The Committee requests the Government to provide further information on the concrete actions undertaken by labour inspectors in cases where, in the discharge of their duties, they encounter violations of the legal provisions related to conditions of work and protection of wages for migrant workers, including those in an irregular situation, specifying how it ensures that these workers are actually granted their statutory rights, such as the payment of unpaid wages, social security benefits or the conclusion of an employment contract, and further specifying the amounts recovered and the number of contracts concluded in this respect.**

The Committee notes that the FNV and CNV reiterate that migrant workers are especially vulnerable to abusive labour conditions and are very critical of the results of the work of the labour inspectorate in this respect, indicating that: (a) cases (i.e. accidents at work, physical abuse and unpaid wages) take so long to be inspected that, in the meantime, the workers concerned may be dismissed, feel victimized or are discouraged from filing again a complaint; (b) obvious infringements are not inspected, nor are they fined; and (c) inspections operate in a very fragmented manner, with the result that cases are not coordinated. **The Committee requests the Government to provide detailed comments in this respect.**

The Committee notes that the FNV and CNV also reiterate that very few cases of non-compliance are actually brought to the courts by migrant workers without the required work permit or residence permit and that while these possibilities exist formally, the protection of undocumented migrant workers lacks substance. Moreover, the FNV and CNV state that the number of prosecuted cases of labour exploitation and convicted offenders decreases every year and therefore the prosecution of such cases is lagging behind and labour exploitation often remains unpunished in the Netherlands. In this respect, the Committee notes the Government's indication that several complaints are filed with the labour inspectorate on cases that may involve labour exploitation, but that only a few are brought to court because most cases either do not have the characteristics of labour exploitation or do not meet the high burden of proof established in this respect, although in such cases there may be a serious detriment to workers by employers that can be examined and investigated under administrative law. ***The Committee requests the Government to provide information on the number and outcome of judicial proceedings on all matters, including labour exploitation, resulting from inspections carried out or actions taken by labour inspectors.***

Lastly, the Committee also notes that the FNV and CNV indicate that the aforementioned vulnerability of migrant workers is sustained by the role of temporary employment agencies, which number 14,000 companies (22,000 if payrolling enterprises are included) and actively recruit migrant workers in the Netherlands, sometimes under deceptive pretensions. The FNV and CNV also indicate that migrant workers have become a business model for temporary employment agencies as well as for housing facilitators and transporting companies. In this regard, the Committee notes the Government's indication that an advisory team was set up to advise the Cabinet on the protection of migrant workers and actions to be taken with respect to them, including combating labour exploitation, and that in October 2020 this team recommended increasing the capacity of the labour inspectorate in order to strengthen supervision in the temporary employment agency sector. The Government states that if a new Cabinet decides to consider such a recommendation, the labour inspection's coverage of the temporary employment agency sector would increase and thus also the likelihood of detection of malpractices. ***The Committee requests the Government to provide information on the measures adopted or envisaged to strengthen labour inspection in temporary employment agencies, including the follow-up measures taken following the recommendation of the Cabinet's advisory team in 2020 on this matter.***

Noting that the FNV and CNV reiterate that the labour inspectorate is neither authorized nor sufficiently equipped to ensure the application of the collective agreements in relation to temporary posted workers, the Committee again requests the Government to provide its comments in this respect.

The Committee is raising other matters in a request addressed directly to the Government.

New Zealand

Labour Statistics Convention, 1985 (No. 160) (ratification: 2001)

Previous comment

The Committee notes the observations of Business New Zealand (BusinessNZ) and the New Zealand Council of Trade Unions (NZCTU), communicated together with the Government's report.

Part II. Application of the Articles of the Convention. The Committee welcomes the comprehensive report provided by the Government. It notes the Government's indication that there have been certain changes in the application of the Convention during the reporting period. The Labour Market Statistics series was changed as of June quarter of 2016, with the inclusion of additional questions in the Household Labour Force Survey. The Government explains that the change was made to improve the relevance and quality of the labour market statistics compiled through the Survey, as the new content

collects more information about the nature of people's employment conditions and work arrangements. The Government also notes that, as of June 2019, the sample size for the Household Economic Survey was expanded from 5,500 households to 28,500 households in compiling information on household income, housing costs and child poverty. This change is intended to reduce margins of error in the data, as well as to provide information at a sub-population level.

Articles 7 and 8 of the Convention. Employment, unemployment and underemployment statistics. Statistics on the structure and distribution of the economically active population. The Committee notes that the Government continues to provide statistics on the economically active population, employment and unemployment to the ILO Department of Statistics (ILOSTAT) for dissemination through its website. In this respect, the latest Labour Force Survey (LFS) figures relate to 2021. Moreover, in response to the Committee's previous comment, the Government indicates that changes made to the Labour Market Statistics series and Household Labour Force Survey questionnaire implement developments with respect to Resolution I adopted by the 19th International Conference of Labour Statisticians (ICLS) on Statistics of work, employment and labour underutilization (2013). With respect to *Article 8*, the Committee notes that the Government continues to provide data on the structure and distribution of the economically active population to ILOSTAT for dissemination on its website, most recently via the 2021 ILOSTAT questionnaire. The Government notes that the Census of Population and Dwellings was last undertaken in 2018 and data was supplied to ILOSTAT for dissemination. The Government points out that participation in the 2018 Census was lower than in previous censuses. As a result, data was used from alternative sources and different methodologies to produce a fit-for-purpose dataset. It adds that planning is currently underway for the next New Zealand Census of Population and Dwellings, which will take place in March 2023. In this context, the Committee notes the observations of BusinessNZ, which indicates that information under *Article 8* of the Convention is now considerably outdated, given that the most recent census was conducted in 2018. According to BusinessNZ the 2018 census was a 'digital first' census, which some 70 per cent of New Zealanders were expected to complete. This expectation was, however, not realized. ***The Committee invites the Government to continue to provide statistical data and methodological information relevant to the application of Articles 7 and 8 of the Convention, and to supply updated information in relation to the 2023 census once it becomes available. The Government is also requested to continue to provide information on any developments in relation to the implementation of the Resolution concerning statistics of work, employment and labour underutilization (Resolution I), adopted by the 19th International Conference of Labour Statisticians (October 2013), as well as in relation to the Resolution concerning statistics on work relationships (Resolution I), adopted by the 20th International Conference of Labour Statisticians (October 2018).***

Article 9. Current statistics of average earnings and hours of work. Statistics of time rates of wages and normal hours of work. The Committee notes that statistics on hours actually worked continue to be collected in the Household Labour Force Survey and submitted to ILOSTAT through its annual questionnaire. The most recent statistics supplied refer to 2020. Current statistics on average hourly and weekly gross earnings, average weekly hours paid for, and the corresponding number of filled jobs, continue to be compiled quarterly, from the Quarterly Employment Survey (QES) conducted by Statistics New Zealand in March, June, September and December. In its reply to the observations of the NZCTU, the Government indicates that the QES has been revised, but that this revision does not include additional measures, nor does it affect the scope of the QES. Revisions to coverage related to sample redesign and increased coverage of industries, rather than to scope of coverage or definitions. The Government also notes that in preparation to make these changes, the Government consulted extensively with key users of the QES, as well as some data providers. It adds that the social partners were invited to be part of the consultation process. The Committee notes that, in its observations, BusinessNZ indicates that changes made to the QES appear to address the concerns raised by the NZCTU. At the same time, the Committee notes the NZCTU's indication that the sample size of the

Household Labour Force Survey (HLFS) is too small to allow for reliable disaggregation of statistics by ethnicity, or for cross-tabulation of regional data by industry. NZCTU therefore considers that the availability and reliability of statistics on earnings, hours of work, wage structure and distribution would be enhanced by carrying out a more regular survey with a larger sample size. Responding to the observations of the NZCTU indicating that the official statistics available on wage rates in collective agreements in New Zealand show only changes in wages (increases or decreases) from the quarterly Labour Cost Index Survey, the Government indicates that the Labour Cost Index does not measure average earnings or hours of work and thus falls outside the scope of *Article 9*. The NZCTU also observes that there is currently some uncertainty around arrangements for the collection and analysis of statistics derived from collective Agreements, but that discussions are currently underway on how this will be arranged and funded in the future. ***The Committee requests that the Government provide updated information on the concepts, definitions and methodology used in the statistics covered by Article 9 of the Convention to ILOSTAT through its annual questionnaire for dissemination. The Committee also requests the Government to continue to include information on the application in practice of Article 9 of the Convention by providing information on the consultations held and cooperation with the social partners when designing and revising such concepts, definitions and methodology.***

Article 14. Statistics of occupational injuries and diseases. The Committee notes that the Government continues to supply statistics on fatal and non-fatal occupational injuries disaggregated by economic activity via the ILOSTAT annual questionnaire on labour statistics. The latest statistics refer to 2019 and are published on the Government website. Responding to the Committee's previous comment, the Government provides information on the steps that it has taken during the reporting period to improve the quality of the statistics on occupational injuries and diseases. In addition, the Government notes that Stats NZ chairs an Injury Information Working Group, which is working across government units to improve the quality of injury data (including data on workplace injuries). The "Serious injury outcome indicators" series and the "Inquiry statistics – Work-related claims" series are published on the Stats NZ website and cover the years 2000–19.

The Committee notes the information provided by the Government on developments in relation to the quality and availability of data compiled under *Article 14*. In this regard, it notes with ***interest*** the Government's indication that the issue noted by the Independent Taskforce on Workplace Health and Safety concerning unreliability of data involving workplace fatalities has been resolved. The Committee also notes with ***interest*** that the recommendation issued by the Independent Taskforce on Workplace Health and Safety to "improve the quality and availability of data and information on workplace injury and occupational health performance by establishing a sector-leading research, evaluation and monitoring function within the new agency" has been picked up in the Government's 2013 response to the independent Taskforce Report known as 'Working Safer: A blueprint for health and safety at work'. Following the 2013 report, the Government set up a research, evaluation and monitoring function with WorkSafe. The Committee notes the Government's indication that WorkSafe collects and publishes a range of data on selected industries and types of work covering annual and monthly data on fatalities, injuries, accident types, notifications, and WorkSafe activities such as enforcement, investigations and assessment. The data comes from both WorkSafe's own registers and from the claims register of the Accident Compensation Corporation (ACC). This information is published on the WorkSafe Data Centre web page. The Committee notes that WorkSafe also commissions and publishes a range of research into particular industries and other aspects of the health and safety at work system. These publications are published on the Work Safe Research web page. In addition, WorkSafe and ACC both contribute data to the "Safe Work Australia Comparative Monitoring Report" published by Safe Work Australia. In its observations, BusinessNZ indicates that WorkSafe's 2020 annual report provides information on progress made in addressing workplace health and safety. ***The Committee requests the Government to continue to provide updated information on any developments in relation to the collection, compilation and publication of statistics on occupational injuries and diseases, including in relation to any***

measures taken to implement the recommendations of the Independent Taskforce on Workplace Health and Safety. In addition, the Committee requests that the Government continue to supply up-to-date statistics to ILOSTAT through its annual questionnaire, taking into account the decision of the International Labour Conference at its 110th Session in June 2022 to include “a safe and healthy working environment” as a fundamental principle and right at work under paragraph 2 of the ILO Declaration on Fundamental Principles and Rights at Work.

North Macedonia

Labour Inspection Convention, 1947 (No. 81) (ratification: 1991)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1991)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

Article 3(1)(a) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No. 129. Labour inspection activities with regard to foreign workers and the protection of foreign workers in an irregular situation. The Committee notes the Government's indication, in reply to its previous comments, that labour inspectors carry out the supervision of the implementation of the Law on Employment of Foreign Nationals (LEFN) during regular inspections in the areas of labour relations. The Committee notes that, pursuant to section 18(2) of the Law, the monitoring of its implementation shall be carried out by the State Labour Inspectorate (SLI) and pursuant to section 18(3), labour inspections related to work permits and illegal employment or work of foreign nationals may be carried out ex officio or at the request of the Employment Service Agency (ESA). The SLI is then obliged to submit reports every six months regarding the instituted procedures and imposed misdemeanour sanctions to the ESA pursuant to section 18(4) of the LEFN. Fines can be imposed not only on an employer or a facilitator of illegal work, but also on a foreign national if she or he does not present the work permit when requested by the SLI (section 27). The Committee recalls that, pursuant to *Article 3* of Convention No. 81 and *Article 6* of Convention No. 129, the functions of the system of labour inspection shall be to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work. Further, in its 2006 General Survey, Labour inspection, paragraph 78, the Committee indicated that any function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of labour inspection, which is to protect the rights and interests of all workers and to improve their working conditions. Referring to paragraph 452 of the 2017 General Survey on certain occupational safety and health instruments, the Committee recalls that workers in a vulnerable situation may not be willing to cooperate with the labour inspection services if they fear negative consequences as a result of inspection activities, such as the loss of their job or expulsion from the country. **The Committee requests the Government to take specific measures to ensure that the functions assigned to labour inspectors do not interfere with the main objective of labour inspectors, which is to ensure the protection of workers in accordance with Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. It requests the Government to provide information on action undertaken by the inspectorate to ensure the enforcement of the rights of foreign workers found to be in an irregular situation. It further asks the Government to provide information on the number of cases in which foreign workers found to be in an irregular situation have been granted their due rights, such as the payment of outstanding wages or social security benefits.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Republic of Korea

Labour Inspection Convention, 1947 (No. 81) (ratification: 1992)

Previous comments: [observation](#) and [direct request](#)

The Committee notes the observations of the Federation of Korean Trade Unions (FKTU), the Korean Confederation of Trade Unions (KCTU) and the Korea Enterprises Federation (KEF), communicated with the Government's report, as well as the Government's response.

Articles 6, 10 and 16 of the Convention. Conditions of service of labour inspectors. Number of labour inspectors and inspection visits. The Committee previously noted that the increase in the number of labour inspectors was not sufficient to cover the increase in the volume of cases handled by them, and that labour inspectors were likely to be exposed to overtime work of more than 12 hours a week.

In response to the previous requests of the Committee, the Government indicates that the number of labour inspectors continues to increase every year, from 1,694 in 2016 to 2,894 in 2019 (2,213 for labour standards and 681 for occupational safety and health) to 3,122 in 2021 and that additional recruitment is still ongoing. The Government also indicates that the monthly average amount of overtime was 18.71 hours in 2020, reduced by 16.6 per cent (3.72 hours) compared to 2016. The overtime allowances are paid per hour, calculated as 150 per cent of the hourly amount converted from the monthly wage based on each salary grade. The Committee also notes that, according to the salary table provided by the Government, labour inspectors receive similar remuneration with the police and firefighting officials. ***The Committee requests the Government to continue its efforts to ensure that the number of labour inspectors is sufficient to secure the effective discharge of the duties of the inspectorate. It also requests the Government to continue providing information on the number of labour inspectors, the amount of overtime worked by inspectors, and any updates on comparative remuneration between labour inspectors, police, and firefighting officials.***

Article 12(1)(a). Unannounced visits. The Government indicates that, while unannounced inspections were carried out from 2015 to 2017 regarding basic employment rules in small businesses and vulnerable sectors, since 2018 the inspection plans were communicated in advance to allow employers to voluntarily rectify faults, considering that small businesses need prior instructions and guidance as they are more likely to violate the law by ignorance. The Committee notes that, according to the statistics information provided by the Government, in 2017, 5,859 announced inspections were carried out in total, while 16,705 inspection visits were conducted without prior notice. As from 2018, the large majority of inspections were announced inspections. In 2019, there were 20,714 announced inspection and 4,700 unannounced inspections carried out. In addition, the number of violations detected increased substantially, from 45,955 (17,835 by announced inspection and 28,120 by unannounced inspection) in 2017, to 89,564 (71,350 by announced inspection and 18,214 by unannounced inspection) in 2019. The Committee also notes the Government's indication that, while the number of inspections decreased after 2019 because of reduced face-to-face contact in the context of COVID-19, it intends to rebound the target number of inspection visits and increase unannounced inspections. The Government indicates that unannounced inspections include planned inspections targeting vulnerable sectors to cover institutional blind spots, report-based inspections related to wage arrears and complaint-based inspections. ***The Committee requests the Government to take the necessary measures to ensure that labour inspectors are empowered to make visits to workplaces liable to inspection without previous notice in conformity with Article 12(1)(a). It also requests the Government to provide further information on the measures taken to ensure the compliance of SMEs with basic employment rules, including the number of inspections of different types carried out and the results achieved.***

The Committee is raising other matters in a request addressed directly to the Government.

Russian Federation

Labour Inspection Convention, 1947 (No. 81) (ratification: 1998)

Previous comments: [observation](#) and [direct request](#)

The Committee notes the observations of the Confederation of Labour of Russia (KTR), received on 31 August 2021.

Article 3(1) and (2) of the Convention. Additional functions entrusted to the labour inspectorate. Functions of the labour inspection with regard to undeclared work. In its observations, the KTR indicates that the number of cases in which the inspectors have identified workers in informal labour relations is insignificant compared to assessments of the scale of undisclosed labour relations in the Russian Federation. It observes that the reports of the Federal Service for Labour and Employment (Rostrud) do not refer to the number of criminal or administrative cases launched in connection with the identification of informal employment by inspectors, nor to the number of fines imposed. The Committee notes that KTR also indicates that Rostrud, aside from monitoring in the sphere of labour relations, is also responsible for monitoring and oversight in other social spheres. **The Committee requests the Government to provide its comments in this respect. It also requests the Government to indicate whether labour inspectors are given additional duties other than their primary duties listed in Article 3(1) of the Convention. Furthermore, it requests the Government to provide data concerning the enforcement of the legal provisions relating to conditions of work and the protection of workers through the activities of the labour inspectorate with regard to undeclared work (the number of cases in which workers were registered with the social security authorities, the number of cases in which workers were paid outstanding salaries resulting from their past employment relationship, etc.). The Committee also requests the Government to provide information on the estimated numbers of unregistered workers and uninsured workers.**

The Committee notes the KTR's indication that the inspectorate does not monitor legislation determining the rights of trade unions, including guarantees of protection from discrimination based on trade union involvement, since the relevant legislation is not part of labour law. **Concerning this matter, the Committee refers to its observation under the Convention on the Right to Organise and Collective Bargaining, 1949 (No. 98), concerning adequate protection against acts of anti-union discrimination and interference.**

Articles 6 and 10. Conditions of service. Number of labour inspectors. The Committee notes that in reply to its previous comment concerning the recruitment of an adequate number of inspectors, the Government indicates that at present, the maximum number of personnel at Rostrud is approved by Resolution No. 1724 of 2017. The Committee also notes that the Government report does not contain information concerning the number of labour inspectors. However, the Committee notes with **concern** that according to the reports on the activities of Rostrud as shared by KTR, the number of labour inspectors continued to decline from 1,820, in 2019, to 1,793 in 2020. According to these reports, as of August 2021, there were 44 vacancies for state labour inspectors.

Concerning the condition of service of the labour inspectorate, the Committee notes the Government's indication that the Decree No. 481 of 7 October 2019 increased official salaries of all civil servants by 1.043 times. The Government also reports on a series of activities to ensure professional development and integration of new employees in Rostrud's territorial bodies, such as mentoring of new recruits and targeted training for a pre-selected number of labour inspectors in order to promote their career progression.

The Committee also notes that in its observation the KTR states that, despite the extended duties of labour inspectors, the number of inspectors is not increasing, but rather, continues to fall. Regarding the conditions of service, the KTR indicates that the upper limit for salaries of labour inspectors did not

exceed the average Russian monthly wage in 2020 in any of the constituent entities that have vacancies. According to the KTR, the wage of state labour inspectors is not even half of the average wage of other federal civil servants at the regional level. ***The Committee requests the Government to provide its comments in this respect. Moreover, the Committee urges the Government to take the necessary measures to ensure that the number of labour inspectors is sufficient to secure the effective discharge of the duties of the inspection service. In this regard, it requests once again the Government to provide information on the efforts made to recruit new labour inspectors and to fill the existing vacancies. It further requests the Government to provide information on the number of labour inspectors and on the career structure of the Rostrud, including grade and positions as well as the number of appointments made at each position. Noting the absence of information on this matter, the Committee requests once again that the Government provide detailed information on: (i) the levels of remuneration of labour inspectors in comparison to the remuneration levels of other officials exercising functions of similar complexity and responsibility such as tax inspectors and the police; and (ii) the reason for the high attrition rate of labour inspectors.***

Article 5(b). Collaboration with representatives of employers and workers. The Committee takes note of the KTR observations according to which national legislation provides only for a general indication of the need for the Inspectorate to cooperate with trade unions and does not provide for the right of trade unions to lodge a complaint with the Inspectorate, or for the Inspectorate's cooperation on the consideration of such appeals. ***The Committee requests the Government to provide its comments in this respect. The Committee also requests the Government to provide information on measures taken to promote collaboration between the labour inspectorate and employers and workers or their organizations.***

Articles 7(3), 17 and 18. Enforcement of labour law provisions. For many years the Committee has been noting a disparity between the number of cases reported by the labour inspectorate, the number of investigations initiated and the number of convictions. The Committee takes note of the information provided by the Government regarding the monitoring activities for 2019 and 2020. However, the Committee notes that the Government's report is silent on the number of criminal cases instituted and the actual convictions. The Committee notes that, in 2020, the courts annulled 942 decisions taken by labour inspectors. In its observations, the KTR indicates that although the reports of Rostrud provide general indicators for administrative proceedings against employers, there is a lack of information about all categories of violations for which employers have been subjected to administrative proceedings. The KTR also indicates that state labour inspectors' powers are confined to responding to undisputed cases of violations of labour law, although the official understanding of "undisputed cases of violations of labour law" and the limitations on the powers of state labour inspectors in such cases have not been formally established. The trade union adds that this approach to labour inspectors is due to ambiguous legal practices that consider unlawful the act of state labour inspectors issuing employers with binding orders or imposing fines for violations of the law, if by doing so the inspector is "resolving an individual labour dispute". According to the KTR, since the legislation does not establish clear criteria that would allow the differentiation of a "labour dispute" from a situation in which a state labour inspector is entitled to intervene, state labour inspectors' orders on any issue may in practice be declared unlawful by the court in connection with inspectors exceeding their authority and interfering in a "labour dispute". Regarding concrete measures taken to address the deficiencies identified, the Government reports a series of trainings but does not provide specific information regarding the training for labour inspectors on the establishment and completion of non-compliance reports, including the collection of the necessary evidence, as previously requested by the Committee. ***The Committee requests the Government to provide its comments with respect to the KTR observations. The Committee urges the Government to take the necessary measures to ensure the effective enforcement of the legal provisions enforceable by labour inspectors. It once again requests the Government to provide information on concrete measures taken to address the deficiencies identified,***

such as training for labour inspectors on the establishment and completion of non-compliance reports, including: (i) the collection of the necessary evidence; (ii) the improvement of communication and coordination activities with the judiciary on the required evidence to establish and effectively prosecute labour law violations; and (iii) the need for timely communication of the outcome of cases to the labour inspectorate. The Committee requests the Government to provide concrete statistics on the administrative and criminal cases reported by the labour inspectorate, the investigations and prosecutions initiated, and the penalties imposed as a result. In view of the KTR observations, the Committee also requests information on the reasons for the cancellations by the courts of the decisions taken by labour inspectors.

Article 12. Labour inspectors' powers and prerogatives. In reply to the Committee's previous comment, the Government indicates that the new Federal Act No. 248-FZ of 31 July 2020 provides for unannounced inspection visits, which shall be carried out without prior notification and during which the inspector has unimpeded access to documents, facilities and premises, as well as the right to perform a series of monitoring actions. In this respect, the Committee notes that the inspector can conduct an oral interview of the controlled person under section 78 of the Federal Act No. 248-FZ. The Committee notes that in its observations, the KTR indicates that Federal Act No. 248-FZ was adopted without regard to the view of the KTR and retained restrictions on the powers of state labour inspectors. In particular, it indicates that: (i) physical inspections are possible only if an inspector cannot verify the completeness and accuracy of the documents and explanations submitted by an employer, in order to assess the lawfulness of the employer's activity (inactivity) by another means (Act No. 248-FZ, section 73(3)); (ii) unplanned inspection visits are allowed only with the consent of the prosecutor, except in situations where they are conducted on special grounds, such as on the instruction of the Russian President or the Russian Government, at the request of the prosecutor, or in the absence of evidence of the execution by the employer of a previously issued order (Act No. 248-FZ, sections 73(5) and 57(1)(3-6), 57(3) and 66(12)); and (iii) employers must be given notice at least 24 hours prior to the start of an unplanned inspection visit (Act No. 248-FZ, section 73(6)). Furthermore, the Committee notes with **concern** that many of the restrictions on the powers of labour inspectors noted previously by the Committee remain in place, including restrictions on the free initiative of labour inspectors to undertake inspections without prior notice (sections 9(12) and 10(16) of Law No. 294-FZ) and on the free access of labour inspectors to workplaces at any hour of the day or night (sections 10(5) and 18(4) of Law No. 294-FZ), as well as the enumeration of limited grounds on which unscheduled inspection visits may be undertaken (section 10(2) of Law No. 294-FZ and section 10 of Regulation No. 875). The Committee also notes that, for a number of years it has been noting that pursuant to section 19(6)(1) and (2) of the Code of Administrative Offences, labour inspectors may incur administrative liability where they fail to observe certain restrictions. The Committee notes that the Government has not provided relevant information on this matter. **The Committee requests the Government to provide its comments with respect to the KTR observations. Recalling and emphasizing the importance of fully empowering labour inspectors to make visits without previous notice in order to guarantee effective supervision, the Committee once again urges the Government to take the necessary measures to bring the national legislation into conformity with Article 12 of the Convention, particularly by ensuring that labour inspectors are empowered to make visits without previous notice, in line with Article 12(1)(a) and (b) of the Convention. The Committee reiterates its request that the Government provide further information on the cases brought against officials of the state labour inspectorates under section 19(6) of the Code on Administrative Offences, indicating the requirements of the legislation on state control that were violated, particularly specifying violations related to undertaking labour inspections on grounds other than those permitted in law, and any penalties assessed against inspectors based on such violations.**

Article 14. Notification of industrial accidents and cases of occupational diseases to the labour inspectorate. For a number of years, the Committee has been requesting the Government to provide

information on any legislative changes establishing the systematic notification of the labour inspectorate of cases of occupational diseases. The Committee recalls that according to the Order of the Ministry of Health No. 176 of 28 May 2001, the Sanitary and Epidemiological Supervision Centre shall inform the territorial state labour inspector only for acute diseases. In its observations, the KTR indicates that the Inspectorate does not have the authority to collect full information on industrial accidents and occupational diseases and refers to section 228.1 of the Labour Code, according to which, employers are only required to inform the Inspectorate of group industrial accidents, serious industrial accidents or fatal industrial accidents. The Committee emphasizes once again that the systematic notification of the labour inspectorate of industrial accidents and cases of occupational diseases is important to fulfil its functions and obligations, including the planning of labour inspection visits and the inclusion of such information in the annual reports on labour inspection. **Therefore, the Committee requests once again that the Government provide information on any measures taken or envisaged to establish a procedure to ensure that the labour inspectorate is notified of all types of industrial accidents and cases of occupational diseases. It also requests the Government to ensure that representative statistics in this regard are included in the annual labour inspection report.**

Article 16. Frequency and thoroughness of labour inspections. In reply to the Committee's previous comment, the Government indicates that inspections visits using the risk-based approach are only carried out on a scheduled basis. The Government adds that, by 1 July of the year preceding the scheduled inspection year, certain information on employers whose activities are classified as high- and significant- risk is posted and kept up-to-date on the official Internet website of Rostrud. The Government also indicates that it developed a series of online tools to reinforce Rostrud's preventive work in the form of online consulting for employees and employers. This also includes the possibility for employers to conduct self-inspections through an electronic checklist. The Government adds that, the Federal Act No. 122-FZ of 24 April 2020 on Experimenting with the Use of Electronic Work Documents, will facilitate implementation of electronic oversight while avoiding direct interaction with employers, thereby substantially reducing inspectors' workload. In its observations, the KTR points to increased intervals between inspections; and indicates that the criteria for assigning employers to the various risk categories give rise to the following concerns: (i) regulations offer no instructions on the right of workers and trade unions to contact the Inspectorate with information on facts affecting the assignment of an employer to a risk category; (ii) the assignment of employers to risk categories is largely based on the formal criterion of the main type of economic activity indicated by the employer, with no consideration given to the fact that employers may at the same time in practice carry out activities assigned to a higher risk; (iii) one of the criteria influencing the establishment of employers' risk categories is the existence or absence of administrative proceedings for the violation of labour law which is taken into consideration irrespective of their number, and thus does not encourage unscrupulous employers to observe labour law if they have already been held administratively liable for its violation; (iv) the consideration of the criteria of the number of workers on a company's staff, and type of economic activity, means that the majority of small- and medium-sized enterprises are considered low-risk and thus excluded from planned inspections.

The Committee takes note of the number of inspections, including scheduled inspections carried out by the State Labour Inspectorate for the period 2016–20. It notes that the number of inspections significantly decreased from 131,286 in 2019 to 69,895 in 2020, a decrease which according to the Government was due to restrictions associated with adoption of decisions taken in the context of the COVID-19 pandemic. In this respect, the KTR refers once again to constraints on the work of the state labour inspectorate in the context of the pandemic through legislations adopted since 2020, and to an increase in workers' complaints about the non-observance by employers of labour law. **The Committee requests the Government to provide its comments with respect to the KTR observations. It requests the Government to take measures, including legislative amendments, with regard to the criteria for assigning employers to the various risk categories to ensure that workplaces are inspected as often**

and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions. The Committee requests the Government to continue to provide statistics on the number of labour inspections undertaken each year, including the number of scheduled and unscheduled inspections, and of inspections undertaken on-site and those conducted without a visit to the establishment. It requests once again that the Government provide the breakdown of inspections in small, medium-sized and large enterprises. Further, the Committee requests the Government to provide detailed information on the circumstances under which employers conduct self-inspections, and to indicate the number of self-assessments conducted and the number of follow-up inspection visits by labour inspectors in case of violations. The Committee also requests the Government to indicate whether any COVID-19 related restrictions to labour inspection are still in place.

Articles 20 and 21. Annual labour inspection report. The Committee takes note of the observations of the KTR according to which, although the Inspectorate's reports contain a range of statistical information on the number of complaints received by the Inspectorate and the distribution of visits by economic sector, they do not provide statistical information on occupational diseases and contain only some statistical data on serious industrial accidents rather than on all accidents. **The Committee requests the Government to provide its reply in this respect and indicate any steps taken or envisaged in order to publish a consolidated labour inspection report containing detailed information on all the items listed in Article 21(a)–(g) of the Convention.**

Rwanda

Labour Inspection Convention, 1947 (No. 81) (ratification: 1980)

Previous comments: [observation](#) and [direct request](#)

Article 3(1) and (2) of the Convention. Additional functions entrusted to labour inspectors. Conciliation. With reference to its previous comment, the Committee notes the Government's indication that it adopted Law No. 66/2018 of 30/08/2018 regulating labour in Rwanda (the Labour Code), which revises Law No. 13/2009 of 27 May 2009 (the 2009 Labour Code). The Committee notes in particular that sections 102 and 103 of the Labour Code provide that labour inspectors are responsible for mediating individual and collective labour disputes. In addition, the Government indicates that section 3 of the Ministerial Order No. 001/19.20 of 17/03/2020 relating to labour inspection sets out the responsibilities of the labour inspectorate as including the conciliation of labour disputes. In this regard, the Committee notes that sections 10 to 16 of the Order provide for the procedure to be followed for the settlement of labour disputes when mediated by labour inspectors. The Committee notes that the Government did not make use of the review of the Labour Code undertaken in 2018 to bring its legislation in line with the requirements of *Article 3(2)* of the Convention. The Committee recalls that the time spent by inspectors on conciliation may be detrimental to the performance of their primary duties, as defined in *Article 3(1)* of the Convention, particularly in a context where resources are limited. Further, the Committee draws the Government's attention in this regard to the guidance provided in Paragraph 8 of the Labour Inspection Recommendation, 1947 (No. 81), stating that the functions of labour inspectors should not include that of acting as conciliator or arbitrator in proceedings concerning labour disputes. **The Committee therefore asks the Government to: (i) take the necessary measures to discharge labour inspectors of any mediation functions regarding individual and collective labour disputes; (ii) amend the legal framework to this effect, in particular sections 102 and 103 of the Labour Code and sections 3 and 10 to 16 of the Ministerial Order No. 001/19.20 of 17/03/2020; and (iii) keep the Office informed of the progress made in this respect.**

Article 12(1)(a). Powers of labour inspectors to enter freely at any hour of the day or night any workplace liable to inspection. With reference to its previous comment, the Committee notes that section 6(2)(1) of the Ministerial Order No. 001/19.20 of 17/03/2020 relating to labour inspection provides that, upon

presentation of identification, a labour inspector can enter an enterprise of his or her jurisdiction during working hours, without notice for inspection purpose. The Committee notes that the new Ministerial Order continues to limit the power of labour inspectors to conduct inspection visits to the working hours of the undertaking. The Committee notes that, for many years, it has been requesting the Government to bring the provisions of national legislation in line with *Article 12(1)(a)* of the Convention. It recalls once again that labour inspectors should be empowered to enter workplaces liable to inspection at any hours of the day and night. In this regard the Committee once again refers to paragraph 270 of its [2006 General Survey on labour inspection](#), which refers, for example, to the appropriate timing of visits necessary to carry out technical inspections when machinery or production processes are stopped, or to check for abusive night conditions in a workplace officially operating during the daytime. ***The Committee therefore urges the Government to bring its legislation in line with Article 12(1)(a) of the Convention so as to ensure that the powers of entry of labour inspectors are extended to any hour of the day or night regardless of the working hours of the workplaces liable to inspection.***

The Committee is raising other matters in a request addressed directly to the Government.

Uganda

Labour Inspection Convention, 1947 (No. 81) (ratification: 1963)

Previous comment

Article 4 of the Convention. Supervision and control by a central authority. The Committee notes the Government's response to its previous request, to place the labour inspection system under a central authority following its decentralization, that while the central government plays a supervisory role, the system of labour inspection is decentralized and local governments directly supervise the labour inspectors in their jurisdictions. The Government indicates that while no new legislation has been adopted, the Ministry of Gender, Labour and Social Development has developed a position paper to have the labour inspection system placed under the central inspections authority. The paper is in initial stages and will be subject to consultations. The Committee further notes the Government's indication that the decentralization poses a challenge for the undertaking of a sufficient number of inspections and for the preparation of the annual labour inspection report. ***The Committee urges the Government to strengthen its efforts to place the labour inspection system under a central authority with a view to ensuring coherence in the functioning of the system. It requests the Government to continue to provide information on the legislative and practical steps taken, including the consultations held in that respect.***

Articles 10, 11 and 16. Resources of the labour inspection system and inspection visits. The Committee takes due note of the Government's indication that it has increased the total number of inspectors to 231: 58 inspectors at the central inspection system (including 27 specialized occupational safety and health inspectors), and an additional 173 inspectors engaged for local governments, city authorities and municipal councils. The Government indicates that, at the central level, while 82 positions have been approved, only 71 per cent have been filled. The Government also indicates, in response to the Committee's previous request on human and material resources, that : (i) it has committed 5 per cent of the Government's Social Development Non-wage Recurrent Transfer Grant to the districts to reduce the financial constraints on the district's labour inspection; (ii) at the national level, the OSH Department at the Ministry of Gender, Labour and Social Development received funding for joint inspections between headquarters, district inspectors and other key inspection stakeholders; and (iii) it has put in place measures to enhance the operationalization of local offices for labour inspectors, including providing necessary equipment and developing projects and programmes for the construction of better offices. However, the Committee further notes the Government's indication that it is faced with administrative and financial constraints that include the decentralization of the labour department, and

that as this department is not a priority, it is inadequately financed and hence there are few inspections. In addition, the Government indicates that most labour inspectors lack necessary transport equipment such as motor vehicles and motorcycles that are necessary for the execution of their mandate, but that labour inspectors are reimbursed for travel and incidental expense in performing their duties. ***The Committee urges the Government to take further measures to ensure that there are a sufficient number of labour inspectors provided with adequate resources, in conformity with Articles 10 and 11 of the Convention. It also requests the Government to take immediate measures to ensure that workplaces are inspected as often as is necessary for the effective application of the relevant legal provisions, as required by Article 16 of the Convention. In this respect, it requests the Government to take measures to ensure the filling of the vacant positions, and to address the lack of necessary transport facilities for inspectors. Finally, the Committee requests the Government to continue to provide information on the measures taken, as well as information on the total number of inspector positions, the number of filled positions, and the number of inspection visits carried out.***

Articles 19, 20 and 21. Reports from local inspection offices and publication and communication of an annual report on labour inspection. The Committee notes the Government's indication, in response to its previous comment, that under the decentralized structures, labour inspectors report directly to the districts, which leads to irregularities of reporting to the central inspection authority. The Government indicates that it mostly receives reports from local labour offices only upon demand, but that the Ministry has communicated to the local authorities regarding the requirements to submit reports. The Government states that efforts are being made to ensure that annual inspection reports are developed, published and transmitted as required. ***In line with the requirements of Article 21 of the Convention, and recalling that section 20 of the Uganda Employment Act of 2006 also provides for the annual publication of a report, the Committee urges the Government to take the necessary measures to ensure that annual reports on labour inspection are published and communicated regularly to the ILO, and that they contain the information required by Article 21(a)–(g).***

The Committee is raising other matters in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 63** (Chile, Cuba, Egypt, Nicaragua, United Republic of Tanzania); **Convention No. 81** (Albania, Algeria, Angola, Antigua and Barbuda, Austria, Bahrain, Bangladesh, Barbados, Belgium, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Cabo Verde, Cameroon, Canada, Central African Republic, Chad, China: Hong Kong Special Administrative Region, China: Macau Special Administrative Region, Colombia, Comoros, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Democratic Republic of the Congo, Denmark, Djibouti, Ecuador, Finland, Ghana, Greece, Guinea-Bissau, Guyana, Haiti, Hungary, India, Indonesia, Italy, Jamaica, Japan, Kenya, Kyrgyzstan, Lebanon, Libya, Lithuania, Madagascar, Malawi, Malta, Morocco, Namibia, Netherlands, Netherlands: Caribbean Part of the Netherlands, Netherlands: Sint Maarten, New Zealand, Niger, North Macedonia, Republic of Korea, Rwanda, Uganda, Uzbekistan); **Convention No. 85** (United Republic of Tanzania: Zanzibar); **Convention No. 129** (Albania, Belgium, Bosnia and Herzegovina, Burkina Faso, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Denmark, Finland, Guyana, Hungary, Italy, Kenya, Madagascar, Malawi, Malta, Morocco, Netherlands, North Macedonia, Uzbekistan); **Convention No. 150** (Central African Republic, China, Costa Rica, Côte d'Ivoire, Democratic Republic of the Congo, Denmark, El Salvador, Finland, Lebanon, Malawi, Morocco, Namibia, Niger, North Macedonia, Rwanda); **Convention No. 160** (Cyprus, Denmark, El Salvador, Lithuania, Mauritius, Mexico, Republic of Moldova).

Employment policy and promotion

Armenia

Employment Policy Convention, 1964 (No. 122) (ratification: 1994)

Previous comment

Article 1 of the Convention. Employment trends and implementation of an active employment policy. The Committee notes the signing of the Decent Work Country Programme (DWCP) for 2019-2023, which sets priorities and key country outcomes that were developed in close consultation with the tripartite constituents and other national stakeholders. The Committee notes that, according to information available on the ILO website, despite large-scale reforms in the employment sphere over the past years, there are still pressing issues to be addressed. These include the gap between labour force supply and demand, existing barriers to employment for first-time labour market entrants, groups in vulnerable situations and skilled workers. Under the second DWCP priority, the national constituents undertake to develop a new National Employment Strategy (NES), addressing these and other issues, such as youth and rural employment, informality and entrepreneurship development. The NES, once developed and adopted, is to become a core national policy document for a comprehensive employment policy framework to support inclusive and sustainable economic growth in Armenia. The Committee further notes the Government's indication that the 2021 programme of the Government of the Republic of Armenia includes among its key priorities the eradication of poverty through the promotion of employment and education. In this context, the Government indicates that it is taking steps to review the employment policies, one of which is the wide-scale programme "Work Armenia!", which focuses on promoting employment among women and young persons. Lastly, the Government indicates that measures have been taken to introduce career guidance activities in vocational education and training (VET) institutions, including in the framework of the "Better Qualifications for Better Jobs 2017-2019 Budget Support Agreement between the Government of the Republic of Armenia and the European Union (EU).

With regard to employment trends, the Government reports that, as of 1 January 2021, 87,999 job seekers were registered in the regional centres of the United Social Service (former State Employment Agency) of the Ministry of Labour and Social Issues, representing an increase of 3.6 per cent in comparison with the same period of the previous year. In the same period, 10,109 people were employed (25.2 per cent less as compared to the previous year), 1,450 persons were not included in the employment regulation state programs (a decrease of 40 per cent as compared to the previous year). Moreover, there were 61,320 persons unemployed (a decrease of 0.7 per cent in comparison with the previous year). The Government adds that the number of unemployed women remained high (39,653 women), representing 64.7 per cent of the total number of unemployed persons. Moreover, the Government indicates that regional disparities also remain and reports that in 2020, the highest employment was registered in Yerevan (2,253 jobseekers were hired in 2020) and the lowest in Vayots Dzor (only 273 jobseekers were hired). In this context, the Government refers to the implementation of the programme "Support for Livestock breeding" since 2019, with the objective of promoting employment and overcoming poverty in certain regions. The Government reports that in 2019, 1,098 persons participated in the program. The Committee further notes that, according to information derived from the Household Labour Force Survey available to the ILO Department of Statistics (ILOSTAT), in 2020, the labour force participation rate was 66.5 per cent (71.1 per cent for men and 62.6 per cent for women), the employment-population ratio was 58.4 per cent (60.5 per cent for men and 56.6 per cent for women). Finally, the unemployment rate was 12.2 per cent (14.9 per cent for men and 9.6 per cent for women). **The Committee requests the Government to continue to provide detailed**

updated information on the nature, scope and impact of the measures taken to promote full productive employment, including those adopted in the framework of the Decent Work Country Programme (DWCP) 2019-2023. It also requests the Government to provide detailed updated information on progress made in respect of the development and adoption of the National Employment Strategy (NES), and to provide a copy once it is adopted. In addition, the Committee requests the Government to continue to provide detailed updated information, including statistical data disaggregated by sex and age, on employment trends in the country, particularly on employment, unemployment and underemployment.

Groups vulnerable to decent work deficits. The Committee notes the Government's indication that, in 2020, 5,675 persons were registered in state employment regulation programmes, of which 54.5 per cent were women, 22.4 per cent were young people aged 16 to 29 and 6.2 per cent were persons with disabilities. The Government adds that 1,162 of the participants in these programmes acquired stable employment or became self-employed during 2020, 62 of which were persons with disabilities. In addition, the Government reports that 3,256 people became temporarily employed in paid seasonal public works, including 265 persons with disabilities. The Committee also notes the information provided by the Government regarding the adoption of new programmes aimed at promoting women's employment. The Government indicates that support is provided for jobseekers with children under the age of three. Assistance for childcare is also provided to parents returning to work while the child is under the age of two years. These measures aim to facilitate the return to work of people on childcare leave. In addition, on-the-job training is provided to mothers who do not have a competitive professional qualification in the job market to enable them to acquire competitive work skills at the workplace. The Committee nevertheless notes that, in its concluding observations of 31 October 2022, the Committee on the Elimination of Discrimination against Women (CEDAW) noted with concern the limited access to stable and adequately remunerated employment for disadvantaged and marginalized groups of women, including women belonging to ethnic minorities, internally displaced women, women in a refugee-like situation, migrant women and women with disabilities (document CEDAW/C/ARM/CO/7, paragraph 35 (f)). Moreover, the Committee notes the information provided by the Government on the implementation and impact of different programmes aimed at promoting the employment of persons with disabilities, including the provision of financial assistance (reimbursement of 50 per cent of the monthly salary for one year) to employers of persons with disabilities. The Government also refers to the provision of a one-time compensation to employers hiring persons with disabilities to train them to support their acquisition of adequate skills and abilities, as well as for the adjustment of the workplace to their needs. The Government reports that, in 2020, there were 522 beneficiaries of financial support for training and 4 beneficiaries of the financial support for workplace adjustments. In addition, the Government refers to the adoption of Decision No. 1616-N of 14 November, 2019, which introduced amendments to several government employment programmes, with a view to expanding their scope and improving their implementation. For instance, the requirement of having the status of unemployed person for at least three months has been removed. The Government indicates that this conditional requirement was hindering the implementation of those employment programs which require a quick response to make the job seeker more competitive in the labour market and enable the jobseeker to rapidly meet the needs of the employer. Finally, the Government refers to the implementation of employment programmes to promote employment of the unemployed citizens of the Artsakh Republic, who were deported in 2020 due to the war with Azerbaijan: these targeted programmes include a three-month internship programme and a programme providing temporary employment through the paid public works system. The Committee nevertheless notes that the Government does not provide information on the measures taken in the area of vocational education and training aimed at promoting employment among young persons. **The Committee requests the Government to continue to provide detailed updated information, including statistical data disaggregated by sex, age and region, on the nature, scope and impact of the measures and programmes implemented to promote the employment**

of groups vulnerable to decent work deficits, including women, young persons, persons with disabilities and persons vulnerable to intersectional discrimination. With regard to the active labour market measures directed at young persons, the Committee requests the Government to provide information on the nature, scope and the impact of the measures taken in the area of vocational education and training in relation to improving the employability of young persons.

Article 2. Implementation of active labour market measures. The Committee notes the Government's indication that no control mechanisms are established under the national legislation to monitor the activities of private employment agencies. **The Committee therefore requests the Government to provide detailed information on any measures taken or envisaged, in consultation with the social partners, to regulate the activities of private recruitment agencies operating on Armenian territory. In this regard, the Committee invites the Government to consider the possibility of ratifying the Private Employment Agencies Convention, 1997 (No. 181), as the most updated instrument in this area.**

Undeclared work. The Government indicates that amendments were introduced to the Tax Code of the Republic of Armenia during the reporting period with a view to strengthening the requirements regarding the formalization of employees. The Government reports that these amendments have contributed to increasing the number of registered employees and to strengthen the efficiency of the accuracy checks carried out to formalize the employees recruited, in accordance with the legislation and/or submit a registration statement for the employee. The Government reports that, between 2018 and 2020, 6,235 unregistered employees were identified. In addition, the number of jobs held by taxpayers with declared income increased from 513 000 in January 2019 to 593 000 in January 2021. **The Committee requests the Government to continue to provide updated disaggregated information on the impact of the measures taken to reduce the number of undeclared workers and facilitate their integration into the formal economy.**

Article 3. Consultation of the social partners. The Committee notes the Government's indication that the State Employment Agency has continued to actively cooperate with the Republican and Territorial Coordination Committees on labour market issues, annual employment programs, and providing information on the implementation of the annual state employment regulation programs. The Government points out that, each year, the Republican Harmonisation Committee discusses and submits its opinions on the draft annual programme to the Republican Tripartite Commission, which is responsible for ensuring the implementation of the Republican Collective Agreement. The final draft annual programme, containing the views expressed by both parties, is then transmitted to the Government of the Republic of Armenia for approval. **The Committee requests the Government to provide concrete examples of the manner in which the views of the social partners are taken into account in the development, implementation and review of employment policies and programmes.**

Cameroon

Employment Policy Convention, 1964 (No. 122) (ratification: 1970)

Previous comment

The Committee notes the observations of the General Union of Workers of Cameroon (UGTC), received on 16 September 2021, concerning the application of the Convention. **The Committee requests the Government to provide its comments in this regard.**

Article 1 of the Convention. Implementation of an active employment policy. The Government indicates that, as part of the promotion of self-employment, Framework Act No. 2019/004 of 25 April 2019 governing the social economy in Cameroon has been adopted and the corresponding decree has been signed. The Committee notes the UGTC's indication that it was not consulted on Act No. 2019/004 of 25 April 2019 and the related decree. Furthermore, the Committee notes the adoption, on 3 January

2020, of Decree No. 2020/0001 on the structuring and functioning of the network of social economy units. With regard to the development and implementation of an active employment policy, the Committee notes that in May 2017, the strategic components of the National Employment Policy (PNE) were developed with the technical and financial support of the ILO and approved by the interministerial committee responsible for monitoring employment in Cameroon. In this context, the UGTC observes that, despite the ILO's support, Cameroon has not yet adopted an act on employment policy. The Committee notes that, according to the ILO study, "Evaluation des besoins des unités de l'économie sociale et identification des chaînes de valeur prioritaires pour la création d'emplois décents au Cameroun" (Assessment of the needs of social economy units and identification of priority value chains for the creation of decent jobs in Cameroon), the Government has embarked on a process of structural reforms and macroeconomic policies, set out in Cameroon's National Development Strategy 2030. This strategy is reflected in Cameroon's development policy documents for the next ten years, namely the National Development Strategy 2020–30 (SND 2020-2030), the Rural Sector Development Strategy/National Agricultural Investment Plan 2020-2030 (SDSR/PNIA 2020-2030), and in the main lines of the National Social Economy Development Programme (PNDES), offering decent and productive employment opportunities to all. **While noting the efforts made by the Government in the context of structural reforms and macroeconomic policies, the Committee recalls that the main requirement of the Convention is to declare and pursue a national employment policy for the promotion of employment and decent work, and urges the Government to take the necessary measures to finalize the development of the new national employment policy, in consultation with the social partners and relevant stakeholders. The Committee requests the Government to keep it informed of the measures taken and progress made in this regard, and to provide a copy of the new policy once it has been adopted.**

Article 1(3). Coordination of education and training policy with employment policy. The Government indicates that, as part of the employment strategy, Act No. 2018/010 of 11 July 2018 governing vocational training has been adopted. The Government also indicates that the Act provides for the creation of the National Council for Vocational Guidance and Training, which is responsible for monitoring and evaluating the implementation of vocational training policy and strategies. It adds that eight regulatory texts establishing the modalities of application of the Act have already been signed. The Committee notes that, according to the provisions of Act No. 2018/010, in particular section 8(1) and (2), vocational training is governed by the principles of tripartism between the State, the employer and the worker (section 1), and that the State ensures that vocational training meets the needs expressed by socio-occupational groups, in order to minimize the mismatch between training and employment (section 2). It also notes that section 47(5) of the Act stipulates that the State shall ensure the relevance, quality and continuous adaptation of vocational training to national economic and socio-cultural realities, and to the international environment. **Noting that the Government has not replied to the points raised previously, the Committee once again requests the Government to indicate how the State ensures consistency in the organization of vocational training as part of national or regional planning, in order to overcome the difficulty of coordinating education and training policy with employment policy. It also requests the Government to provide information on the consultations held with employers' and workers' organizations and to provide, in particular, specific examples of the manner in which the social partners' views are taken into account in the preparation and implementation of draft legislation, and in any other measures related to the development and implementation of a coordinated education and training policy. The Government is also requested to provide information on the impact of the implementation of the new Act on the occupational integration of categories of workers, particularly young workers, in the labour market.**

Informal economy. The Committee notes the information provided by the Government in its 2021 report under the Termination of Employment Convention, 1982 (No. 158), concerning the introduction of facilitation and support measures for workers in the informal sector. In particular, the Government

mentions support for small and medium-sized enterprises (SMEs) in the textile and innovation sectors, social safety net mechanisms with an increase in family allowances to 60 per cent, the waiving of penalties for the late payment of social security contributions, a three-month suspension of checks on the National Social Insurance Fund (CNPS), tax exemptions for informal production units, and the application of tax and customs reforms to lighten the burden on employers. In this regard, the Committee notes that, according to the ILO study, “Etude sur la migration de l’économie informelle vers l’économie formelle : proposition de stratégie pour le groupement inter-patronal du Cameroun” (Study on Migration from the Informal to the Formal Economy: Proposed Strategy for the Network of Employers’ Organizations of Cameroon), the Government has implemented initiatives to reduce the size and expansion of the informal sector in Cameroon. In particular, it has created Enterprise Creation Formality Centres (CFCE) and fostered the creation of Approved Management Centres (CGA) to limit barriers to entry into the formal sector. ***The Committee requests the Government to provide up-to-date information on the impact of measures taken to facilitate the transition from the informal to the formal economy. In addition, it requests the Government to provide detailed information on the manner in which the facilitation and support measures taken contribute to the creation of decent jobs and provide adequate protection to workers in the informal economy.***

Article 2. Collection and use of data on employment. The Committee notes that the Government does not provide any information in this regard. ***Given that data collection allows the results of employment policies to be examined and evaluated, and the monitoring of progress towards full, productive and freely chosen employment, the Committee once again request the Government to specify the active employment policy measures adopted as a result of the establishment of the various bodies responsible for collecting information on employment. It also requests the Government to indicate to what extent and the manner in which labour market information is used as a basis for the establishment of the new employment policy (Article 2).***

Article 3. Participation of the social partners in the development and implementation of employment policies. The Committee notes the UGTC’s observations that trade union organizations are not part of the National Council for Vocational Guidance and Training. In this regard, it also notes the observations forwarded by the UGTC under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), particularly concerning the lack of representativeness in the sectors of activity and the absence of a forum for inter-union reflection. ***Recalling the importance of the participation of the social partners and persons concerned in the consultation process with respect to the development and implementation of a national employment policy, the Committee once again requests the Government to provide information on the participation of the social partners in the development and implementation of the national employment policy. The Committee also requests the Government to take all the necessary measures to facilitate the consultation of representatives of workers, including rural workers and informal economy workers, in the development and implementation of employment policy, as provided for in Article 3 of the Convention.***

The Committee is raising other matters in a request addressed directly to the Government.

Canada

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

Previous comment

Articles 1 and 2 of the Convention. Employment trends and active labour market measures. In its previous comments, the Committee noted the concerns raised by the Canadian Labour Congress (CLC) with respect to the lack of an active policy to promote full, productive and freely chosen employment that is articulated and integrated into socio-economic decision-making, as required by *Article 1* of the Convention. The CLC indicated that the aims set out in *Article 2* are difficult to coherently implement

through measurable objectives that could lead to concrete reporting for the evaluation of programmes. The Committee requested that the Government indicate the manner in which active labour market measures are kept under review within the framework of an overall coordinated economic and social policy. The Government indicates that the Labour Market Development Agreements (LMDAs) and Workforce Development Agreements (WDAs) include a Performance Measurement Strategy. The data collected under the Strategy allow provincial and territorial governments to support the continuous improvement of programmes and services and ensure that investments are producing concrete results for the population, such as increased income and sustainable jobs. Under the Performance Measurement Strategy, provinces and territories provide the federal Government with data on the number of persons benefitting from employment measures and interventions completed under the LMDAs and the WDAs. The Committee notes that, according to the 2020-21 Employment Insurance Monitoring and Assessment Report, individuals that receive training and employment supports while receiving Employment Insurance (EI) income benefits earn more and reduce their dependence on EI and social assistance. The LMDAs provide labour market support measures to workers and employers across Canada. These supports range from less-intensive employment counselling and job search assistance to more intensive measures, such as skills training and experiential learning through targeted wage subsidies. Recent evaluations have examined the effectiveness of LMDA-funded supports and identified lessons learned for the efficient design and delivery of particular measures. According to the cited report, the incremental impact analysis demonstrated that Employment Assistance Services (EAS), Skills Development (SD) and Targeted Wage Subsidies (TWS) resulted in improvements in labour market attachments overall. These supports have also been shown to benefit sub-groups of participants: females, males, young persons, older workers, indigenous people, persons with disabilities, recent immigrants and visible minorities. The Committee notes that, according to the 2022 Budget, the federal Government provides more than 3 billion Canadian dollars (CAD) in funding annually to provinces and territories for the purpose of providing training and employment support through the Labour Market Transfer Agreements. These investments help more than 1 million Canadians every year prepare for their next job through programmes ranging from skills training and wage subsidies, to career counselling and job search assistance. Budget 2022 also proposes to amend Part II of the Employment Insurance Act to ensure that more workers are eligible to receive assistance before becoming unemployed, as well as to ensure that employers can receive direct support to re-train their workers. During the first months of the pandemic, the Canadian economy experienced its steepest output decline since quarterly data were first recorded in 1960. The Committee notes that the unemployment rate in February 2022 stood at 5.5 per cent, lower than prior to the COVID-19 pandemic. It further notes from Budget 2022 that, with the unemployment rate hitting near-record lows, some businesses are struggling to find workers, whereas many Canadians – women with young children, new graduates, newcomers, black and racialized Canadians, indigenous peoples, and persons with disabilities, among others – are facing barriers to securing meaningful and well-paid work. ***The Committee requests the Government to continue providing up-to-date information on the measures adopted or envisaged to achieve the objectives of the Convention and, in particular, on how these have helped the beneficiaries obtain full, productive and sustainable employment and decent work. It further requests the Government to continue to provide information, including statistical data disaggregated by sex, age and economic sector, on the current situation and trends regarding the active population, employment, unemployment and underemployment.***

Article 3. Participation of the social partners in the formulation and implementation of policies. The Government reports that, pursuant to the LMDAs and WDAs, the payment of annual funding to provinces and territories is tied to deliverables, including annual plans and reports in which provinces and territories are required to provide information on consultations undertaken with employers' and workers' organizations. More specifically, provinces and territories must provide a description of the consultation process and the results of the process in their annual plans and reports, as well as a list of

the stakeholders consulted. Broad-based consultations with provinces, territories and stakeholders provide an opportunity to identify ways to improve the labour market transfer agreements and guide future investments to strengthen labour market programming. The feedback received from labour market transfer agreement consultations held in 2016 with the Forum of Labour Market Ministers (FLMM) led to a significant reform of these agreements to expand and improve skills training and employment supports. Consultations also take place, on a needed basis, with federal, provincial, and territorial governments through the FLMM Working Group on Labour Market Transfer Agreements and Performance Measurement. This Forum enables partners to oversee and review the implementation of the performance measurement plan on LMDAs and WDAs, to ensure that it captures the key performance indicators required to fully capture the outcomes of programmes and services. The Committee recalls that *Article 3* of the Convention calls for measures and programmes to be adopted and implemented under the national employment policy through an inclusive process of consultation with the social partners and persons affected by the measures to be taken (2020 General Survey, *Promoting employment and decent work in a changing landscape*, paragraph 94). Paragraph 5 of Recommendation No. 169 indicates that policies, plans and programmes adopted in the framework of the employment policy should be drawn up and implemented in consultation and cooperation with employers' and workers' organizations and other representatives of the persons concerned. ***The Committee requests the Government to provide updated detailed information on the content and outcomes of effective consultations held with the social partners on the matters covered by the Convention, including the consultations involving representatives of the persons affected by the employment measures to be taken.***

The Committee is raising other matters in a request addressed directly to the Government.

Comoros

Employment Policy Convention, 1964 (No. 122) (ratification: 1978)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations made by the Workers Confederation of Comoros (CTC), received on 1 August 2017. ***It requests the Government to provide its comments on the matter.***

Article 1 of the Convention. Implementation of an active employment policy. Youth employment. In its previous comments, the Committee requested the Government to indicate in its next report whether the Act issuing the national employment policy had been adopted and to indicate whether specific difficulties had been encountered in achieving the objectives set out in the national Poverty Reduction and Growth Strategy Paper (PRGSP). The Committee notes with **interest** that the national employment policy act (PNE) was adopted through the promulgation on 3 July 2014 of Decree No. 14-11/PR enacting Framework Act No. 14-020/AU of 21 May 2014 issuing the national employment policy. The Government indicates that this Act aims to provide a common and coherent vision of the strategic approaches for taking national action on employment, by increasing opportunities for low-income population groups to access decent work and a stable and sustainable income. The Government adds that in November 2014, with ILO support, it developed and adopted the Emergency Plan for Youth Employment (PUREJ), which is part of the process to implement the PNE. The PUREJ involves the adoption of programmes to promote youth employment which result from priority measures identified in the strategic framework of the PNE and integrated in the Strategy for Accelerated Growth and Sustainable Development (SCA2D). The Government adds that the overall objective of the PUREJ is to ensure strong employment growth in the short and medium term. In this context, the PUREJ focuses mainly on the promotion of youth employment in job-creating sectors for a period of two years, in order to contribute to the diversification of the economy, the production of goods and services and the building of social peace. The Government points out that the objective was to create 5,000 new decent and productive jobs for young persons and women by the end of 2016, through the development of skills in line with the needs of priority sectors of the Comorian economy and support for the promotion of employment and vocational integration. The Committee notes that in May 2015 the Government signed,

together with the constituents and the ILO, the second generation Decent Work Country Programme (DWCP), of which the main priority is to ensure the promotion and governance of employment. The Committee notes the observations of the CTC which indicate that the implementation of the PNE is not effective. It points out that the vocational training component, which is being conducted through a project with the European Union, is the only one being applied. In this regard, the provisions and mechanisms of the PNE have not been implemented and the text has not been disseminated to the public. The CTC also reports the dismissal of over 5,000 young persons without compensation. ***The Committee once again requests the Government to indicate whether specific difficulties have been encountered in achieving the objectives set out in the PRGSP. It requests the Government to provide more detailed information on the measures taken with a view to achieving the employment priorities established in the framework of the DWCP 2015–19, and on the impact of measures and programmes such as the PUREJ, which are aimed at increasing access to decent work for young persons. In this regard, the Committee requests the Government to indicate the number of young persons who have benefited from these programmes.***

Article 2. Collection and use of employment data. The Committee once again requests the Government to provide detailed information on the progress made with the collection of data on the labour market, and on the manner in which this data is taken into consideration during the formulation and implementation of the employment policy. It reminds the Government that it may avail itself of ILO technical assistance if it so wishes.

Article 3. Participation of the social partners. The Committee once again requests the Government to include full information on the consultations envisaged in Article 3 of the Convention, which requires the participation of all of the persons affected, and particularly employers' and workers' representatives, in the formulation and implementation of employment policies. The Committee hopes that the Government will make every effort to take the necessary measures without delay.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Costa Rica

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

Previous comments

The Committee notes the Government's replies to the observations of the Confederation of Workers Rerum Novarum (CTRN) in 2017, which were included in its report. The Committee also notes the observations of the CTRN, received on 31 August 2021. ***The Committee requests the Government to send its reply in this respect.***

Article 1 of the Convention. Formulation and implementation of an active employment policy. The Committee notes the copy of the study by the Ministry of National Planning and Economic Policy (MIDEPLAN), provided by the Government, which presents the challenges identified during the implementation, in 2019, of the Bicentennial National Development and Public Investment Plan (PNDIP) 2019–22. The PNDIP provides for the adoption of measures to strengthen the productive capacity of the country and to promote employment. The Committee observes that, according to the study, the current challenges include the need to bring education into line with labour market requirements, as, although efforts have been made in this regard, the 2018 National Survey of Enterprises (ENAE) shows that there is a number of job vacancies due to the lack of skills required for those jobs among applicants. The study also shows that women and young persons have the lowest employment rates and limited access to employment opportunities due to lack of experience and training in non-traditional branches of activity (such as science, technology and engineering). The Committee also notes that, despite the implementation of various programmes and measures to consolidate and improve the competitiveness of small and medium enterprises (SMEs) (which constitute 97.5 per cent of the business environment), the COVID-19 pandemic has had adverse effects on the economy, including the contraction of economic activity, a decrease in employment and changes in employment contracts.

The Committee also notes that, in its observations, the CTRN reports a lack of employment policy in the country. It also states that the COVID-19 pandemic exacerbated the existing employment issues in the country. In this regard, the CTRN highlights the increase in unemployment and underemployment, and in violations of social and labour rights, such as failure to pay minimum wages and wage reductions. The CTRN also states that, between 2019 and 2020, levels of poverty (without taking into account revenue from the health emergency) increased from 21 per cent to 30.4 per cent, while levels of extreme poverty increased from 5.8 per cent to 11 per cent. In its reply to the 2017 observations of the CTRN, the Government refers to the continued implementation of the National Strategy for Employment and Productive Development (ENDEP), which aims to “increase opportunities to enable women and men to find decent and productive work, through a combined effort of economic and social policy, and the public and private sectors, which fosters inclusive growth and the reduction of poverty and inequality”. The Government also provides information on the adoption of a project to support the implementation of this strategy with the help of the ILO Office in San José. However, the Committee notes the Government’s indication that it does not have any information on the impact of the measures adopted to achieve the objective of the Convention, including those adopted under the ENDEP. In this regard, the Committee underscores the importance of having statistical information that allows for the evaluation of the impact of measures adopted to create jobs. The Committee recalls that “a comprehensive, participative and transparent monitoring and evaluation mechanism enables all the parties concerned to identify achievements and challenges in meeting policy objectives. The Committee emphasizes that it is essential to ensure that policies are (..) monitored and evaluated in relation to the established targets and indicators” (2020 General Survey, *Promoting employment and decent work in a changing landscape*, paragraphs 112 and 153). Lastly, the Committee notes the approval of Act No. 9635, Act on strengthening public finances, on 3 December 2018, which, among other measures, provides for the adjustment of the wages and benefits of public servants. The CTRN maintains that the above-mentioned Act was adopted despite being contrary to a number of ILO Conventions, such as the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), as observed in a technical memorandum drafted by the ILO. **The Committee once again requests the Government to provide information on the impact of the measures adopted to achieve the objectives of the Convention, including those adopted under the ENDEP and the Bicentennial National Development and Public Investment Plan (PNDIP) 2019–22. The Committee reminds the Government that it may avail itself of ILO technical assistance in that respect. Regarding the Act on strengthening public finances, the Committee refers to its 2020 observation on the application of Convention No. 98, in which, while it noted the repeated observations of the CTRN reporting that the Act was contrary to the Convention, the Committee requested the Government to provide its comments in that respect.**

Article 3. Participation of the social partners. The Committee notes the Government’s indication that no consultations on employment policies and programmes were held with the social partners during the period covered by the report. Furthermore, the CTRN reports that the Higher Labour Council (CST) was not convened during this period to hold tripartite consultations on employment policies and programmes. In this regard, the Committee underscores that it is essential to ensure that policies are developed, implemented and evaluated through a consultative process with the social partners and representatives of those concerned by the measures to be taken (2020 General Survey, paragraph 153). **The Committee requests the Government to indicate the manner in which representatives of workers’ and employers’ organizations have been consulted, as well as representatives of the parties involved in the design, development, implementation, monitoring and revision of the active labour market measures adopted, including the Act on strengthening public finances.**

The Committee is raising other matters in a request addressed directly to the Government.

Cyprus

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

Previous comment

Articles 1 and 2 of the Convention. Implementation of an active employment policy. Labour trends. The Committee notes the information on trends in employment and unemployment provided by the Government, derived from the Labour Force Surveys conducted by the Statistical Service of Cyprus in 2018, 2019 and 2020. The Government indicates that the labour market situation has deteriorated further in the period since the outbreak of COVID-19. In this context, the Committee notes that, according to the 2020 Labour Force Survey, the unemployment rate increased from 7.1 per cent in 2019 to 7.6 per cent in 2020. The employment rate (for the 20-64 age group) fell from 75.7 per cent to 74.9 per cent during the same period. The Government refers to the implementation of a number of active employment measures, including the Scheme Providing Incentives for the Employment of Unemployed Persons (2020-2024) and the new Subsidy Scheme Providing Incentives for the Employment of Persons with Chronic Diseases (2019-2024). The Government also refers to other employment promotion measures, such as steps taken to strengthen the public employment services and a programme to place Guaranteed Minimum Income (GMI) beneficiaries in employment for 6 months, to provide them with work experience opportunities in the public sector. In addition, the Committee notes the Government's indication that, from 2014 to 2019, Subsidy Schemes providing incentives to promote the employment of various categories of jobseekers have continued to be implemented by the Department of Labour and that the Government also continues to provide incentives to promote employment in the private sector. ***The Committee requests the Government to continue to provide detailed updated information, including statistical information, disaggregated by sex and age, on the nature, scope and impact of employment measures implemented, including the various Subsidy Schemes in place, in particular on the number of jobs generated and the number of beneficiaries placed into employment. The Government is further requested to describe how the information compiled from the Labour Force Surveys is utilized in the design, implementation, monitoring and review of employment policies at the national level.***

Specific categories of workers. The Committee notes the information provided by the Government concerning the development and implementation of targeted employment measures for specific groups of persons in vulnerable situations. In particular, it notes with **interest** that the Government continues to provide targeted training and incentives to encourage private sector enterprises to employ workers belonging to the disadvantaged target groups, including the long-term unemployed, young persons, older workers, those with chronic diseases, detainees and persons with disabilities. ***The Committee requests the Government to continue to provide updated information, including statistical data disaggregated by age and sex, as well as by the target groups referenced above, on the nature, scope and impact of the active labour market measures implemented to increase the employability of persons in vulnerable situations and promote their access to sustainable and lasting employment opportunities.***

Women's employment. The Committee notes that, in 2020, the unemployment rate for men increased from 6.3 per cent to 7.6 per cent, whereas the unemployment rate for women decreased, falling from 8 per cent to 7.6 per cent. The Committee nevertheless notes that the Government does not provide information with regard to the measures taken or envisaged to promote women's employment, particularly women belonging to disadvantaged groups, who frequently face double discrimination. ***Noting that the rate of unemployment of women declined in 2020, the Committee requests the Government to provide information indicating the reasons for this decline, particularly given that it occurred during the COVID-19 pandemic. The Committee also requests the Government to intensify strengthen its efforts to promote the active participation of women in the labour market and***

their access to sustainable employment and decent work, particularly for those facing multiple and intersecting discrimination, such as women with disabilities. It requests the Government to provide information on the nature, scope and impact of measures taken in this respect.

Youth employment. The Government refers to subsidy schemes for youth employment, such as the Scheme Providing Incentives for the Employment of Unemployed Young People up to 25 years old, which operated between 2016 and 2019. It also refers to new schemes being implemented (2020-2024), which continue to provide incentives to encourage private sector enterprises to employ young people between 15–29 years old who are not in Employment or Education or Training (NEETs). The Committee also notes the information provided concerning various schemes for youth employment implemented by the Human Resources Development Authority. In particular, the Committee notes that the youth unemployment rate decreased in 2019, falling from 20.2 per cent in 2018 to 16.6 per cent in 2019 and to 18.2 in 2020. At the same time, youth employment increased from 31.3 per cent in 2018 to 32.4 per cent in 2019; however, the youth employment rate subsequently declined to 31.3 per cent in 2020. ***The Committee requests the Government to continue providing detailed updated information, disaggregated by sex and age, on the nature, scope and impact of incentives and other measures taken to promote the employment and lasting labour market integration of young people, including measures to support young women and men during school to work transitions.***

Education and training policies and programmes. The Committee notes the education and training measures implemented by the Human Resources Development Authority, including on-the-job training programmes with companies in Cyprus or abroad, six-month job placements accompanied by training allowances, job placements with Guaranteed Minimum Income (GMI) for the acquisition of work experience in the public sector, as well as training schemes for specific categories of workers who face difficulties in accessing the labour market, including young people, the long-term unemployed and persons with disabilities. In particular, the Committee notes the Small Units for Entrepreneurship Scheme, which has enabled 48 persons with disabilities to create their own small enterprises, as well as the Vocational Training Scheme for persons with disabilities, which has provided specific vocational skills to 41 applicants to help them keep their jobs or to enhance their employability with a view to improving their access to new employment opportunities. ***The Committee requests the Government to continue to provide updated detailed information on the impact of the measures taken to promote education and training and on the relation of these measures to prospective employment opportunities, as well as the number of persons placed in employment as a result of such measures.***

Article 3. Participation of the social partners. The Committee notes the information provided by the Government in reply to its previous request concerning the application of Article 3. ***The Government is requested to continue to provide updated information in this respect.***

Djibouti

Employment Policy Convention, 1964 (No. 122) (ratification: 1978)

The Committee notes the observations of the International Organisation of Employers (IOE), received on 25 August 2022. It also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2022. The Committee notes that both observations raise issues in relation to the application of the Convention.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 1 of the Convention. Adoption and implementation of an active employment policy. ILO technical assistance. In response to previous comments, the Government indicates in its report that, although the strategy for the formulation of a national employment policy was commenced in April 2003, and new structures have been established, the preparation of a national employment policy paper has still not been completed. The Committee notes that the National Employment Forum held in 2010 showed the need to

develop a new employment policy adapted to labour market needs, which will have to target as a priority the reform of the vocational training system and the improvement of employment support services. The Government indicates that, out of a population of 818,159 inhabitants of working age, recent estimates place the unemployment rate at 48.4 per cent. It also indicates that, following a mission for the evaluation of technical cooperation undertaken by the ILO in March 2011, the Government reiterated its commitment to developing a Djibouti Decent Work Programme. It adds that it is still awaiting Office support for this purpose. ***The Committee requests the Government to provide information on the measures taken to ensure that employment, as a key element of poverty reduction, is central to macroeconomic and social policies, and on the progress made in the adoption of a national policy for the achievement of full employment within the meaning of the Convention.***

Youth employment. The Government indicates that in 2012, despite a certain improvement, unemployment particularly affected young persons with higher education degrees. Moreover, although the country does not currently have a formal strategy to promote youth employment, several initiatives have been established to improve the operation of the labour market, promote entrepreneurship and provide training adapted to labour market needs. ***The Committee invites the Government to provide information on the manner in which the measures adopted have resulted in productive and lasting employment opportunities for young persons, and on the collaboration of the social partners in their implementation.***

Article 2. Collection and use of employment data. In March 2014, the Government provided the summary of the employment situation prepared by the National Employment and Skills Observatory. The number of jobs is increasing (30,118 jobs created in 2007, 35,393 in 2008 and 37,837 in 2010). ***The Committee invites the Government to indicate the measures taken to improve the labour market information system and to consolidate the mechanisms linking this system with decision-making in the field of employment policy. It also requests the Government to provide updated statistical data disaggregated by age and sex, as well as any other relevant data relating to the size and distribution of the workforce, the nature and scope of unemployment and underemployment and the respective trends.***

Article 3. Collaboration of the social partners. ***The Committee recalls the importance of the consultations required by the Convention and once again requests the Government to provide information on the measures adopted or envisaged for the consultation of the representatives of the persons affected on employment policies.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Dominican Republic

Employment Policy Convention, 1964 (No. 122) (ratification: 2001)

Previous comment

The Committee notes the observations of the Autonomous Confederation of Workers' Unions (CASC), the National Confederation of Dominican Workers (CNTD) and the National Confederation of Trade Union Unity (CNUS), received on 1 September 2021. ***The Committee requests the Government to send its comments in this regard.***

Articles 1–3 of the Convention. Formulation and implementation of an active employment policy. Consultations. The Committee notes the Government's indication, in reply to its previous comments, that the National Employment Plan (PNE) adopted in 2014 was not implemented because of institutional and financial restrictions. The Government adds that, even though certain projects in the PNE were implemented, no evaluations of their impact were carried out. The Committee notes the information available on the Ministry of Labour's website concerning the process of preparing a new National Employment Plan (PLANE), with the support of "Eurosocial+", the European Union (EU) programme for social cohesion in Latin America. The objective of the new PLANE is to promote the creation of 600,000 new decent jobs for the 2021–24 period, which is 200,000 more than in the 2014 PLANE. The PLANE project measures include: economic incentives for investment; technical and vocational training

to promote the development of human talent and the employability of the population in situations of great vulnerability; the modernization of the Public Employment Service; and technical and financial support for independent workers, micro, small and medium-sized enterprises (MSMEs), and green job initiatives. The Committee also notes that the National Employment Commission, a tripartite advisory body, was reactivated in May 2021, after six years of inactivity, with a view to launching the consultation process for the development of PLANE. The resulting project is the product of a process in which numerous actors have participated, through virtual thematic forums and numerous electronic consultations, such as representatives of the social partners, various government entities, academic experts and members of civil society. On 17 February 2022, the proposal for the new PLANE was presented to representatives of the social partners and public bodies for their comments, before its final draft. With regard to labour market trends, the Government states that, according to information from the Dominican Labour Market Observatory (OMLAD), between 2018 and 2021 the employment rate fell from 59.5 per cent to 56.8 per cent (71.8 per cent for men and 42.9 per cent for women), the unemployment rate rose from 5.3 per cent to 8 per cent (4.6 per cent for men and 12.8 per cent for women). ***The Committee requests the Government to provide detailed, up-to-date information on the status of the preparation of the new National Employment Plan (PLANE) and to send a copy of it once it has been adopted. The Committee also requests the Government to send detailed, up-to-date information on the content and results of the consultations held with the social partners and representatives of stakeholders, in particular representatives of the workers in rural areas and in the informal economy, regarding employment policies and programmes. The Committee further requests the Government to send up-to-date statistical information, disaggregated by age, sex and region, on labour market trends, including employment, unemployment and underemployment rates.***

Coordination of training policies with employment policies. In its reply to the Committee's previous comments, the Government indicates that since 2016 there have not been any data on the impact of implemented training programmes owing to a lack of economic resources. The Government expresses the hope that after the implementation of employment recovery measures in the context of the COVID-19 pandemic, it will be possible to establish a basis to make it easier to conduct these studies. Moreover, the Government refers to the implementation of the Technical and Vocational Education and Training Support Programme (PRO ETP II), financed by the EU and the Spanish International Cooperation Agency (AECID). The general objective of the programme is to strengthen the technical and vocational education and training (ETFP) system to better respond to the demands of the education and production sectors and the training needs of the economically active population. As a specific objective, it is proposed to contribute to the strengthening of the institutional, normative and functional components of the national EFTP system. In this regard, it is planned to adopt measures aimed, inter alia, at: improving the capacities of the systems linked to the national vocational training system to ensure their participation in the preparation, implementation, monitoring and validation of the National Qualification Network; increasing the capacities of the competent institutions for improving the quality and relevance of the provision of EFTP in order to adapt it to the labour market; and linking the private sector to mechanisms for the design and implementation of EFTP policies through public-private partnerships for development. To achieve these objectives, it is planned, inter alia, to update the electronic employment exchange, and also to implement a labour information system which collates labour market indicators and statistics from various public institutions. Lastly, the Committee notes that the workers' confederations indicate in their observations that the National Institute for Vocational and Technical Training (INFOTEP) has expanded the provision of training and has conducted a survey to identify the requirements of the main occupations in demand and establish a skills and learning strategy to improve the country's competitiveness in the context of the digital era and the future of work. However, they point out that the training plans to promote employment are not coordinated. ***The Committee requests the Government to provide detailed information, including statistics disaggregated by age, sex and region, on the various training programmes implemented, including the Technical and Vocational***

Education and Training Support Programme (PRO ETP II), and also on their impact on securing lasting employment for men and women. With regard to the collection of data on the impact of these programmes, the Committee reminds the Government that it may avail itself of ILO technical assistance in this regard. Moreover, in the light of the observations of the workers' confederations, the Committee requests the Government to send detailed information on how the various programmes of training for employment are coordinated and in what manner consultations with the social partners are ensured.

Specific groups vulnerable to decent work deficits. The Committee observes that, according to ILOSTAT, in 2020, the overall unemployment rate of young persons was 14.9 per cent (11.6 per cent for women and 20.7 per cent for men), whereas 33.7 per cent of all young persons were either unemployed or not studying or receiving training (44.2 per cent for women and 31.1 per cent for men). The Committee notes the information supplied by the Government on the measures adopted to promote youth employment, such as the adoption in 2019 of the *Primer empleo* (initial employment) programme, which provides 6,200 young persons between 18 and 29 years of age with access to employment in the form of training for employment with formal enterprises, in particular promoting the participation of women and single mothers and persons with disabilities. The Government also refers to the implementation of the *Escuela taller* (workshop as school) programme, which provides young persons in vulnerable situations with job training in diverse areas such as crafts, carpentry, construction and electricity. The Government states that from 2015 to the first half of 2021 a total of 571 men and 265 women participated in the programme. Furthermore, the Government refers to the discussion on 25 May 2021 in the Chamber of Deputies of the bill on initial employment, which provides young graduates with the opportunity for internships or half-time work in various institutions so that they can develop acquired knowledge. The Committee notes that the workers' organizations claim in their observations that young persons who have finished higher education face major difficulties regarding access to the labour market because of the lack of job placement strategies for young persons. They also assert that bureaucratic obstacles and high demands regarding levels of previous experience make it difficult for young persons to secure their first job or a change of job. Moreover, they criticize the fact that many of the jobs on offer are precarious, temporary, offer low wages and do not provide opportunities for development. The Government, on the other hand, indicates that in order to promote jobs for women, adequate services with equal opportunities are provided in the programmes implemented by the Ministry of Labour and awareness-raising measures aimed at enterprises have been implemented to promote women's employment. In this regard, the Government states that it has requested enterprises to omit age and gender requirements in job vacancy profiles. Lastly, the Committee refers to its comments on the application of the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), in which it notes the detailed information provided by the Government on the measures taken by the National Council on Disability (CONADIS) to promote employment for persons with disabilities, as well as on the implementation of Basic Act No. 5-13 on equal rights for persons with disabilities, section III of which establishes a quota of two per cent for hiring persons with disabilities in private enterprises (compared with five per cent in the public sector). ***The Committee requests the Government to continue providing detailed, up-to-date information on the measures taken or contemplated to promote access to formal and lasting employment for groups vulnerable to decent work deficits, in particular young persons, women and persons with disabilities. The Committee also requests the Government to send up-to-date statistical information on the impact of such measures. It further requests the Government to provide up-to-date information on the status of the adoption of the bill on initial employment and to send a copy of it once it has been adopted.***

Migrant workers. In its reply to the Committee's previous comments, the Government indicates that the labour legislation prohibits any kind of discriminatory practice in the hire of persons, whether national or foreign, in the context of an employment contract or a job application (principles IV and VII of the Labour Code). The Government states that a total of 3,931 persons, including workers, employers

and public employees, have received training on various aspects of equal opportunities and non-discrimination in employment and occupation. Moreover, it reports on the establishment of the Labour Migration Committee, which is composed of representatives of various national institutions such as the Social Security Treasury (TSS), the National Institute for Migration (INM) and the Ministry of External Relations (MIREX). In this regard, the Government indicates that it is receiving advice and support from the International Organization for Migration (IOM) and the ILO. The Committee notes the adoption on 22 January 2021 of Resolution No. 119-21 normalizing the irregular migration situation of Venezuelan nationals on Dominican territory. Through this resolution, Venezuelan nationals who entered Dominican territory using a tourist card or a visa issued by the Dominican authorities and who have stayed on Dominican territory beyond the authorized period of validity, are eligible for an extension of stay and can apply for a non-resident permit in the student or temporary worker subcategories. ***The Committee requests the Government to send detailed, up-to-date information on the nature and impact of the measures adopted to prevent abuse in the recruitment of foreign workers in the country, including Resolution No. 119-21, and of national workers who emigrate in search of job opportunities abroad, including those adopted within the Labour Migration Committee.***

Informal economy. The Committee notes that, on the basis of the “Eurosocial+” programme report of 28 September 2021 on the updating of PLANE, informality has become established in the country as a structural problem stemming from an economic model that maintains sustained growth in sectors which either do not create employment or do so in precarious forms. The Government also indicates that as a result of the pandemic, there has been an increase in informality, especially in the commerce and construction sectors. According to statistical information from OMLAD, the rate of informality in 2021 was 57.7 per cent (61.7 per cent for men and 51.5 per cent for women). In this regard, it is envisaged that PLANE will include measures for the development of passive employment measures, as well as the establishment of policies for the social protection of informal workers and the reduction of informality in the labour market. Moreover, the Government reports on the implementation of various measures aimed at combating informality in the context of the pandemic through support to MSMEs, such as the implementation of the recovery programme with DOP 4,100 earmarked for MSMEs. Lastly, the Committee notes the information provided by the Government, disaggregated by sex, age and region, on the number of formal workers who entered the labour market for the first time between 2012 and July 2021. ***The Committee requests the Government to continue providing detailed, up-to-date information on the nature and impact of the measures adopted to combat the high rate of informality in the country.***

Micro, small and medium-sized enterprises (MSMEs). The Committee notes the information supplied by the Government on the measures taken to facilitate the establishment of MSMEs and cooperatives in the country. The Government refers, inter alia, to the implementation since 2013 of the “formalization single window” (VUF) for facilitating the establishment of MSMEs in all provinces of the country. The Committee notes with **interest** the Government’s indication that the functioning of the VUF has enabled the time and cost of registering enterprises to be reduced. The Government states that between 2014 and 2020 the percentage of enterprises registered through the VUF increased from 1.56 per cent to 66 per cent of all established enterprises. According to the MSME Policy Department, between 2012 and 2021 a total of 229,358 enterprises were established through in-person channels and between October 2013 and June 2021 a total of 36,695 enterprises were established through the FormalízateRD web portal. However, the Government indicates that it does not have any information on the number of jobs created by new enterprises. The Government also indicates that it is planned to amend Act No. 127-64 on cooperative associations and its implementing regulations, with the aim of modernizing the text and adapting the regulations to simplify the administrative procedures for setting up an enterprise. The Government adds that, between 2012 and 2021, a total of 479 cooperatives were created, with 133 in agriculture and two relating to commerce. As regards policies for the award of public contracts to SMEs, the Government indicates that, under sections 25 and 26 of Act No. 488-18, 15 per cent of purchases of

goods and services by public institutions must go to MSMEs, and 20 per cent to those headed by women (with over 50 per cent in shareholding or social capital). Lastly, the Government indicates that the 2016 analysis of the impact of the public procurement and contracts policy on MSMEs and women revealed a positive impact on beneficiary enterprises, which experienced greater economic benefits, greater professionalization and less staff rotation, as well as an increase in the average wages of their workers. The Committee notes the observations of the workers' organizations, which indicate that in July 2021 a tripartite agreement was reached to modify wage fixing, since the previous methodology used to fix wages did not include MSMEs, thereby generating precarity and job informality among their workers. The workers' organizations also point out that Act No. 688-16 on entrepreneurship was adopted without prior consultation of the social partners, and they state that under that Act the enterprises covered by it are exempt from paying pension contributions for the first three years from the date of formalization. They object to the fact that this obstructs the development of the workers' pension fund, pushing back the age at which they can access their pensions. ***The Committee requests the Government to continue sending detailed, up-to-date information on the measures taken or contemplated to facilitate the establishment of MSMEs and cooperatives, particularly in disadvantaged regions with the highest unemployment rates. In particular, it requests the Government to send information on the status of the amendment of Act No. 127-64 on cooperative associations and its implementing regulations. The Committee also requests the Government to send statistical information on the number and type of enterprises established. As regards the collection of statistical information on the number of jobs created by those enterprises, the Committee requests the Government to provide information on any progress made in this regard and reminds it that it may avail itself of ILO technical assistance in this regard. Lastly, the Committee requests the Government to continue providing information on the impact of policies for awarding public contracts to SMEs.***

Eswatini

Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) (ratification: 1981)

Previous comment

Part II of the Convention. Abolition of fee-charging employment agencies. The Committee notes the Government's indication that a new Employment Bill has been drafted with ILO technical assistance. The Government reports that the draft Employment Bill has been discussed on several occasions within the tripartite Labour Advisory Board (LAB). The Government makes particular reference to section 131 of the draft Employment Bill, which prohibits triangular forms of employment. It adds that the draft Bill will be forwarded to the Cabinet and subsequently to Parliament for its approval. The Committee nevertheless observes that the Government has not provided updated information on the manner in which the Convention is applied in practice. ***The Committee therefore reiterates its request that the Government provide updated information on the national legislation giving effect to Part II of the Convention. The Government is also requested to provide a copy of the new Employment Bill once it is adopted. The Committee also reiterates its request that the Government provide detailed updated information on the manner in which the Convention is applied in practice, including, for instance, extracts from official reports, information regarding the number and nature of the contraventions reported and any other particulars bearing on the practical application of the Convention.***

Revision of Convention No. 96. In its previous comments, the Committee requested the Government to provide information on any developments, in consultation with the social partners, concerning the possible ratification of the Private Employment Agencies Convention, 1997 (No. 181). In this regard, the Committee notes that the Government indicates that there is no information available on the outcome of the tripartite consultations held within the LAB with regard to the possible denunciation of

Convention No. 96 and ratification of Convention No. 181. The Committee notes the Government's indication that it commits itself to fully implement the provisions of Convention No. 96 until such time as it is officially denounced subsequent to the ratification of Convention No. 181. In this respect, the Committee recalls that the Governing Body of the ILO (at its 337th Session in October 2019), on the recommendation of the Standards Review Mechanism Tripartite Working Group (SRM TWG), classified Convention No. 96 as being in the category of instruments that are no longer up to date and placed an item on the agenda of the 119th Session of the International Labour Conference in 2030 for due consideration to be given to its abrogation. The Committee recalls that the Governing Body of the ILO, at its 273rd Session in November 1998, invited the States parties to Convention No. 96 to contemplate the possibility of ratifying Convention No. 181. Such ratification would entail the immediate denunciation of Convention No. 96. ***Recalling that the ratification and application of Convention No. 181 would contribute to strengthening vigilance with regard to the activities of private employment agencies and the protection of workers, the Committee encourages the Government to follow up on the decision adopted by the Governing Body at its 337th Session (October 2019) approving the recommendations of the SRM TWG and to consider ratifying the Private Employment Agencies Convention, 1997 (No. 181), which is the most up-to-date instrument in this subject area. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.***

Finland

Employment Service Convention, 1948 (No. 88) (ratification: 1989)

Previous comment

The Committee notes the observations made by the Federation of Finnish Enterprises (SY), the Central Organization of Finnish Trade Unions (SAK), the Finnish Confederation of Salaried Employees (STTK), the Confederation of Unions for Academic Professionals in Finland (AKAVA) and the Confederation of Finnish Industries (EK), transmitted together with the Government's report.

Article 1 of the Convention. Contribution of the employment service to employment promotion. The Government refers in its report to the Local Government Pilots on Promoting Employment (1269/2020), which began on 1 March 2021 and will end on 30 June 2023 and involve a total of 25 areas and 118 municipalities. The Government is transferring responsibilities for employment and economic development services (TE services) to municipalities and strengthening their role as strategic partners. The pilot projects aim to increase the effectiveness of employment promotion efforts through enhanced coordination of the resources, skills and services of the State and municipalities. In this regard, a funding model is to be created for municipalities to enable them to develop their employment promotion activities in order to increase employment by 7,000 to 10,000 people, including for all jobseekers under the age of 30 and all immigrants and foreign-language speakers. The Government also refers to temporary amendments made to employment legislation and regulations, in particular amendments made to Chapter 2, section 4, subsection 2 of the Act (1456/2016), which requires the authorities to provide jobseekers with the interview opportunities at regular intervals. Regarding the activities of the public employment service, the Committee notes the information provided by the Government drawn from the annual Employment Service Statistics. In particular, it notes that, in 2020, the number of job vacancies decreased, while the monthly registration of unemployed jobseekers increased up to 30 per cent compared to the previous year. In respect of the "Nordic job search model", which seeks to reform both the provision of employment services and the criteria for receiving unemployment benefits as part of the implementation of labour market policy, the Committee notes the observations of EK, which emphasizes that the Nordic model should make use of private employment services, which play a significant role in matching labour supply and demand. The EK further observes that a portal should be

built for private providers of TE services to give them access to the pool of applicants in public TE services. With regard to the public employment service (PES) reform, the Committee notes the information provided by the Government in its report on the application of the Employment Policy Convention, 1964 (No. 122), in particular the implementation of the TE-Digi project, which aims to modernize the electronic service system of the TE public services to better respond to the future needs of the employment services and the investment plan of the Ministry of Economic Affairs and Employment and KEHA Centre for the development of new knowledge-based management and operating models in TE services. ***The Committee requests the Government to continue to provide updated, detailed information, including disaggregated statistical data, showing the impact of the reforms on effective recruitment and placement of workers and on specialization by occupation or branch of activity within the employment services to respond adequately to the needs of jobseekers, including for groups in vulnerable situations, such as persons with disabilities and other groups, particularly those vulnerable to intersectional discrimination. It further requests the Government to provide information on the measures adopted or envisaged to facilitate effective collaboration between the public employment service and private employment agencies in order to achieve the optimal functioning of the labour market and contribute to the objective of full employment.***

Article 9. Staff of the employment service. In response to the Committee's previous comments, the Government indicates that the human resources in the Employment and Economic Development Offices (PES) have increased since 2017. In this respect, the Committee notes the statistics provided by the Government, which show that, in 2021, 3,963 persons were working in employment and economic development services (TE services). It further notes that the local government pilots on employment launched in March 2021 will change the structure of the Employment and Economic Development Offices of the PES, by transferring TE staff to municipalities. With regard to PES staff, the Government indicates that the Nordic labour market service model, which entered into force in 2022 and is designed to streamline and customize the job search process, will increase the resources for TE services by €70 million a year. More than 1,000 experts will be hired to provide customer service, representing an increase of 40 per cent compared with the resources of TE Offices in 2019. In this regard, the Federation of Finnish Enterprises (SY) observes that, while the Nordic job search model could improve the efficiency of the PES, the operations of the PES must be closely monitored and evaluated. In addition, the SAK, the STTK and AKAVA observe that labour market organizations are concerned about how high-quality services can be guaranteed for the unemployed, even with the additional resources mentioned by the Government. They emphasize that it is the quality of services and not their quantity that matters in meeting the needs of unemployed persons. ***The Committee requests the Government to communicate updated information on measures taken or envisaged to provide specialized training to the new and existing public servants in the public employment service to allow them to ensure a service which responds to the concerns of all unemployed persons, including disadvantaged categories of persons such as young people, older workers, migrant workers, workers with disabilities and those belonging to groups vulnerable to intersectional discrimination.***

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1985)

[Previous comment](#)

The Committee notes the observations made by the Federation of Finnish Enterprises (SY), the Confederation of Finnish Industries (EK), the Central Organization of Finnish Trade Unions (SAK), the Finnish Confederation of Salaried Employees (STTK) and the Confederation of Unions for Academic Professionals in Finland (AKAVA), transmitted together with the Government's report.

Articles 3 and 7 of the Convention. Promotion of vocational rehabilitation and employment opportunities for persons with disabilities. The Government indicates that the Act on the Rehabilitation Benefits and Rehabilitation Allowance Benefits of the Social Insurance Institution of Finland (1097/2018) was amended in January 2019. The amendment introduced a new section 7a to the Act on the organization of vocational rehabilitation for young adults. Under the new provision, insured persons between the ages of 16 and 29 are entitled to vocational rehabilitation if their functional capacity is materially impaired and rehabilitation is appropriate to support or promote their functional capacity and life management skills, as well as their ability to study or to secure employment. The Government adds that the Social Insurance Institution shall arrange vocational rehabilitation services for young adults that determine and assess their needs for rehabilitation, rehabilitation opportunities, study and employment opportunities, together with coaching services (subsection 4 of section 7a). Young adults no longer need to submit forms or medical certificates at the stage of applying for rehabilitation and are more actively guided to Social Insurance Institution rehabilitation through their own networks, such as the Ohjaamo One-Stop Guidance Centres and Outreach youth work. The Government indicates that the number of unemployed people with disabilities and long-term illnesses declined until the beginning of the coronavirus pandemic in April 2020 and that the negative effects of the pandemic on unemployment were significantly less pronounced for these persons. The Committee notes that various measures have been taken and new projects, such as the Work Ability Programme and the “Career opportunities for people with partial work ability” (OTE) have been carried out to improve the labour market opportunities of persons with partial work ability. The Committee notes that, during the OTE project (2015–2018), the number of unemployed persons with partial work ability decreased by 30.2 per cent and persons with partial work ability found employment mostly in the open labour market and in all sectors. The Government indicates that, following the OTE key project, there were 12,000 fewer unemployed jobseekers with partial work ability than at the start of the project, which generated direct savings of €100 million per year, as unemployment costs were reduced. The Committee notes that, from 2015 to 2020, the unemployment rate of persons with disabilities and long-term illnesses declined from 52,654 to 46,799, respectively. The Government also refers to the IPS-Sijoita ja valmenna! project (Individual Placement and Support project), which was launched in different parts of Finland in early 2021 to ensure that services supporting work ability are equally available and accessible to persons with disabilities. The Committee notes that the Government plans to extend the IPS-Sijoita ja valmenna! operating model to a total of six hospital districts to support people with mental health disorders on an equal basis to assist them in entering, returning and remaining in the labour market. It further plans to increase the number of work ability coordinators in the Employment and Economic Development Offices (TE Offices) to support people with an impaired ability for work. With regard to people with partial work ability, the Government indicates that a Special Task Company (Välittäjä Oy) has been established to advance the employment of people with partial work ability who occupy a weak position in the labour market. The Välittäjä Oy offers a supported job, as well as the training and other support needed to enable people with partial work ability to secure employment in the open labour market. The Government also refers to subsection 3 of section 7 of the Act on the Rehabilitation Benefits and Rehabilitation Allowance Benefits of the Social Insurance Institution of Finland (566/2005), which governs a business subsidy for vocational rehabilitation. In this regard, the SY observes that wage subsidies for promoting the employment of persons with disabilities should not be used as a permanent solution for employing disadvantaged groups. In addition, the EK observes that the use of wage subsidies for the employment of people with disabilities is justified; however, it considers that wage subsidies must not be used in a way that distorts competition and must be limited to measures that support the employment of persons with disabilities who are facing the most severe employment-related difficulties. The SAK, the STTK and the AKAVA observe that employers’ attitudes towards the employment of people with partial work ability have become more positive. They further observe that the 2021 report of the Ministry of Economic Affairs and Employment emphasizes that employers require

more information and support in relation to the recruitment of people with partial work ability and in planning the modifications these persons may require for work purposes. They also observe that vocational rehabilitation for persons already in employment must begin at a sufficiently early stage while the employee is still able to work. ***The Committee requests the Government to continue providing detailed and up-to-date information, including statistics disaggregated by sex, age and occupation relating to the impact of the measures adopted to promote employment opportunities for persons with disabilities in the open labour market. The Committee also requests the Government to provide information on the manner in which the organizations of workers and employers, as well as representative organizations of and for persons with disabilities, are consulted with regard to the implementation, monitoring and review of the vocational rehabilitation and employment policy for persons with disabilities.***

France

Employment Policy Convention, 1964 (No. 122) (ratification: 1971)

Previous comments

Article 1(2) of the Convention. Implementation of an active employment policy. In its previous comments, the Committee requested the Government to provide information on the active employment policy and its impact with regard to the creation of productive employment and combating unemployment and underemployment, and to indicate whether any other mechanism is envisaged to replace the “small and medium-sized enterprise recruitment bonus”. The Government indicates in its report that since the entry into force of Act No. 2018-771 of 5 September 2018 on the freedom to choose one’s professional future, the employment policy in France has continued to evolve particularly in terms of combating unemployment and increasing labour market dynamism. The Government also indicates that measures to facilitate both job retention and recruitment, particularly for the most vulnerable groups, such as young persons, have been established as part of the “Recovery France” plan. In addition, new comprehensive and integrated job search support measures have been established within public employment services, such as *Pôle emploi* or local branches. The Government indicates that additional resources will be allocated to *Pôle emploi* as part of the “National Recovery and Resilience Plan”. Furthermore, the part-time economic activity scheme has been made more flexible and generous in order to contain the rise in unemployment. The retraining and skills enhancement schemes have also been strengthened with, inter alia, FNE-Training (a scheme dedicated to training for part-time employees or those in enterprises facing economic difficulties) or the scaling-up of the ProA scheme (work-study promotion or retraining schemes). A new scheme to anticipate economic change and retraining needs, entitled “Collective Transitions”, has also been introduced. In this respect, the Committee notes the detailed statistics provided by the Government, particularly those relating to the number of people registered with *Pôle emploi* and required to seek employment (categories A, B, C), which stood at 5,688,700 in the second quarter of 2021. It also notes the INSEE annual data for 2021 on underemployment, disaggregated by sex (8.6 per cent for women and 4.3 per cent for men) and age (10.4 per cent for young persons aged 15–24, 6 per cent for those aged 25–49 and 6.1 per cent for workers aged 50 or over). With regard to employment trends, the Committee notes the data relating to labour market analyses and indicators (INSEE), in particular those relating to trends in salaried employment, excluding temporary work, by status and by activity sector from 2015 to 2020, and in temporary work by user sector from 2000 to 2020. Regarding bonuses and recruitment grants, the Government refers to the introduction of bonuses and recruitment grants with a view to promoting the integration of particular categories of workers who face obstacles in accessing the labour market, such as young persons, persons with disabilities, the long-term unemployed and older workers. In this respect, the Committee notes the establishment of specific measures to promote the integration of

older workers into the labour market, such as through the payment of a €2,000 grant to employers who recruit job seekers aged 45 or over. The Committee also notes the Government's indication that the French employment policy has been significantly affected by the health crisis and that several measures have been put in place to mitigate the impact of the pandemic on governmental employment policies, particularly within the framework of the "Recovery France" and "A solution for every young person" plans. ***The Committee requests the Government to continue to provide detailed and up-to-date information, including statistics, disaggregated by age and sex, on the nature, scope and impact of the active labour market measures taken to promote sustainable employment and decent work, particularly within the framework of the implementation of the provisions of Act No. 2018-771 of 5 September 2018 on the freedom to choose one's professional future and the implementation of the "Recovery France" plan and the National Recovery and Resilience Plan.***

Article 3. Participation of the social partners. The Committee notes the information provided by the Government in response to its previous request concerning the application of the provisions of *Article 3*.

The Committee is raising other matters in a request addressed directly to the Government.

Guatemala

Employment Policy Convention, 1964 (No. 122) (ratification: 1988)

Previous comment

The Committee notes the observations of the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF), supported by the International Organisation of Employers (IOE), received on 1 October 2020, and the Government's reply, received on 14 November 2020. The Committee also notes the observations of the Autonomous Popular Trade Union Movement, Global Unions of Guatemala, received on 16 October 2020. ***The Committee requests the Government to provide its comments in this regard.***

Articles 1 and 3 of the Convention. Implementation of a national employment policy. Consultations with the social partners. The Committee notes with **interest** the efforts made by the Government to achieve the objectives of the Convention within the framework of a coordinated economic and social policy. In this connection, the Committee notes the launching in February 2017 of the National Decent Employment Policy (PNED) 2017-32, which is articulated with the National K'atún Development Plan 2032. The PNED was developed with the technical support of the ILO and the participation of a broad range of actors at the national and regional levels, including representatives of workers' and employers' organizations, and of women, indigenous peoples and youth. The PNED envisages the adoption of measures in four thematic areas: employment generation, human capital development, a conducive environment for enterprise development and formalization. The PNED includes priority measures for: persons with disabilities, returning migrants, older persons, the indigenous population, the LGBTI community, young persons with a criminal record and refugees. The Committee also notes that the Government reports the establishment of the National Decent Employment Commission (CONED) as the body responsible for the implementation of the actions envisaged in each of the four thematic areas of the PNED through a Technical Institutional Round Table composed of four subcommittees which include representatives of employers' and workers' organizations. The thematic priority of employment generation includes among its priority actions the implementation of: (i) the National Plan for the Generation of Decent Employment, which envisages the adoption of measures with a view to the generation of decent jobs in sectors that make a greater contribution to the economic growth and competitiveness of the country; (ii) the National Programme of Migration for Development, which has the objective of putting to good use the knowledge acquired abroad by Guatemalan migrants which are applicable to national development; and (iii) the Programme for the Reinforcement of the Public Employment Service, which envisages the adoption of measures to improve the functioning of the

National Network of Employment Services. The Committee also notes the information provided by the Government on the measures implemented within the context of the reinforcement of public employment services, such as the organization of employment fairs and kiosks, the establishment of a window for returning migrants and the conclusion of agreements with organizations focusing on migrants. Finally, the Committee notes the statistical data provided by the Government on the number of persons in vulnerable groups who received guidance and were helped by public employment services to enter the labour market in 2019 and 2020.

However, the Committee notes that the Trade Union Movement, in its observations, considers that there is no effective national employment policy promoting decent work so that citizens have the opportunity to choose work in accordance with their capacities and experience. The Trade Union Movement indicates that, as a consequence, work in the informal economy is growing disproportionately and part-time work is increasing in the formal economy, which is resulting in a reduction in workers' rights, such as the right to social security and to receive the minimum wage. Moreover, the rise in unemployment and migration to departmental and local capitals is increasing further. ***The Committee requests the Government to continue providing detailed and updated information on the nature, scope and impact of the measures adopted to promote full, productive and freely chosen employment, including those adopted within the framework of the National Decent Employment Policy (PNED) 2017-32. It also requests the Government to provide information, including specific examples, on the manner in which consultations have been held, and their views taken into consideration, with employers' and workers' organizations and representatives of other groups affected (such as women, young persons, indigenous peoples and workers in the informal economy) with a view to the development and implementation of employment policies and programmes, as well as the nature, scope and outcome of the consultations.***

Education and training. The Committee observes that the thematic area of the PNED covering the development of human capital includes, among other priority action, the implementation of the National Youth Training Programme in Transversal and Specific Skills with the objective of promoting training for work. The Government indicates that, within this context, Ministerial Decision No. 3386-2018 was approved institutionalizing the National Labour Training System (SINAFOL) as the structure which manages and articulates the government institutions, the productive sector and the social partners with a view to determining and implementing technical education and training policies and strategies in the country. The objectives of the SINAFOL include the improvement of technical labour and vocational training, the reduction in the gap between the supply of training and productive demand, the design of training supply associated with occupational groups and vocational qualifications. The Government also refers to the creation of the National Vocational Training Commission with the objective of promoting the articulation and coordination of Government institutions, the productive sector and the social partners with a view to implementing and revising every five years the model of technical vocational training. In 2018, the Skills Certification System (SCC) was developed and its implementation was launched with the objective of recognizing and certifying the skills, knowledge, capacities, abilities and competences of persons engaged in trades and occupations learned over a lifetime. In this respect, the Government reports the establishment of various sectoral round tables for the development of national catalogues of families of occupations, vocational skills and training modules. The Government indicates that representatives of the productive sector and training related to each occupational family participated in these round tables. The Committee also notes the Government's reference to the implementation of various vocational education and training programmes, including the implementation of the Guatemala Vocational Training Threshold Programme, with the support of the United States of America, which provides for the adoption of reforms in the education sector and the mobilization of resources with a view to improving the quality and pertinence of middle-level education; and the Labour Skills Certification Programme, which promotes the certification of the competences of citizens who have knowledge or skills. With reference to the latter Programme, the CACIF proposes to

seek opportunities through other approaches, such as dual education. The Committee also notes the information contained in the Government's report on the number of participants in the Technical Capacity-building for Employment Programme, through which capacity-building opportunities are provided to vulnerable groups (such as young persons who are neither studying nor working, the unemployed and underemployed, persons with disabilities and returning migrants) with a view to strengthening their skills and competences through the provision of a technical background and vocational training with a view to their appropriate labour market integration. ***The Committee requests the Government to continue providing updated information on the nature and impact, including statistical data disaggregated by sex and age, of the measures implemented in the field of vocational education and training in relation to potential employment opportunities. It also requests the Government to provide information on the measures adopted to ensure the effective coordination of vocational education and training policies and programmes with employment policies and programmes.***

Labour market information. The Committee observes that, according to the data of the National Statistical Institute (INE), during the second half of 2019, the participation rate was 59.1 per cent (83.1 per cent for men and only 38.7 per cent for women) and the gross occupation rate was 58 per cent (81.7 per cent for men compared with 37.7 per cent for women). The Government adds that the open unemployment rate was 2 per cent (1.7 per cent for men and 2.5 per cent for women), while the visible underemployment rate was 6.5 per cent (6.2 per cent for men and 7.1 per cent for women). The Committee also notes that the PNED envisages the establishment of a National Labour Information System (SNIL) with a view to implementing an evaluation and monitoring system of the PNED and making available to labour market institutions, employers and the population in general all the available labour market information. ***Noting that the employment rate of men is more than twice that of women, the Committee request the Government to provide information on the measures taken or envisaged to promote productive, sustainable and decent work for women, as well as on the impact of these measures on women's employment. It also requests the Government to continue providing updated statistical data, disaggregated by sex and age, on labour market trends, including employment, unemployment and underemployment (visible and invisible) and informality rates, disaggregated by sex, age and rural and urban areas. The Committee further requests the Government to provide statistical data on the labour market situation and trends as a basis for identifying the impact of the measures adopted to promote the employment of specific categories of workers, such as women, young persons, older persons, migrant workers, persons with disabilities, indigenous peoples, and workers in the rural sector and the informal economy. The Committee also requests the Government to provide information on the progress made in the establishment of the National Labour Information System (SNIL).***

Youth employment. The Committee observes, based on the National Employment and Income Survey (ENEI), that in 2019 the youth unemployment rate was 4.6 per cent (4 per cent for men and 5.7 per cent for women) and the rate of young persons who neither study nor work was 28.2 per cent (9.5 per cent for men and 45.8 per cent for women). The Committee notes the information provided by the Government on the implementation of various programmes to promote youth employment. The Government refers, among other measures, to the implementation of the Strategic Institutional Plan 2016-21 of the Technical Capacity-building and Productivity Institute (INTECAP), the objectives of which include the extension of the coverage of initial certifiable training, with emphasis on vocational training for youth. The Government indicates that 145,496 men and 88,983 women benefited from the INTECAP in 2018. The Committee also notes the information provided by the Government on the labour market integration of young persons following the certifiable training provided by the INTECAP. The Government adds that, through the Artisanal Social Grant Programme, conditional cash transfers are provided with a view to strengthening skills for the manufacture of artisanal products. The Government indicates that around 3,000 persons in 51 municipal areas have benefited from such grants, of whom

98 per cent were poor or extremely poor women. The Government also refers to the implementation of the National Workshop Schools Programme, which seeks to contribute to poverty reduction among young persons through training for employment, as well as the First Job Social Grant Programme, which has the objective of facilitating the formal labour market integration of unemployed young persons between 18 and 25 years of age living in poverty or extreme poverty through their temporary recruitment by enterprises as apprentices. Finally, the Committee notes the detailed information provided by the Government on the measures implemented by the National Employment Service to promote youth employment (such as employment guidance and mediation services, the organization of employment fairs, vocational training and capacity-building) and on the impact of these measures. ***The Committee requests the Government to provide updated information on the nature and impact of the measures implemented to promote youth employment, particularly for the most underprivileged categories of young persons. It also requests the Government to continue providing updated statistical data, disaggregated by age and sex, on youth employment trends.***

Persons with disabilities. The Committee notes the information provided by the Government on the number of persons with disabilities who found employment, and the numbers of enterprises and persons in the public and private sectors who received training on the subject of disability within the framework of the Social Inclusion Programme (*Empléate Inclusivo*), which promotes the access of persons with disabilities to decent work through the improvement of their employability. The Government also refers to the holding of consultation workshops on the proposed legislative initiative for the promotion of work, employment and entrepreneurship for persons with disabilities. Nevertheless, the Government indicates that statistical data is not available on the labour market situation of persons with disabilities as the employment surveys carried out by the INE do not cover the subject of disability. ***The Committee requests the Government to continue providing detailed and updated information on the measures adopted with a view to promoting the access of persons with disabilities to the open labour market. In this respect, the Government is requested to make every effort to compile, analyse and then communicate statistical data on the labour market situation of persons with disabilities so as to enable the assessment of the impact of the measures taken to increase access to the open labour market for persons with disabilities. It also requests the Government to provide information on the situation with regard to the proposed legislative initiative on the promotion of work, employment and entrepreneurship by persons with disabilities, and to provide a copy once it has been adopted.***

Informal economy. The Committee notes that, according to the data of the Labour Market Observatory (OML), during the second half of 2019, 65.3 per cent of the occupied population in the country were working in the informal economy (63.8 per cent of men and 68 per cent of women). The Committee observes that the PNED includes among its thematic areas the facilitation of the transition to formality of economic units and workers in the informal economy. In this connection, the Government indicates that in 2019, with the technical assistance of the ILO and the support of EUROSOCIAL, the National Formalization Strategy was designed and that it provides for the adoption of measures to increase the coverage of social protection, the facilitation of administrative procedures, the simplification of the tax system, vocational training and action to improve productivity. The Government also reports the establishment of the Subcommission for the Transition to Formality, which is composed of various national institutions, including the Guatemalan Social Security Institute (IGSS), the CACIF and workers' organizations. The Committee also notes the information provided by the Government on a series of measures adopted to promote the transition from informality to formality, including: the introduction of reforms to the Code of Commerce to facilitate and simplify the establishment of formal enterprises; the development of the "*Así se hace*" ("This is how it is done") portal as a tool for carrying out administrative procedures for the registration of enterprises; and campaigns to promote formalization. In this regard, the CACIF emphasizes the need to take preventive action in relation to inspection with a view to reducing current deficiencies. In its response, the Government refers to the

development of a strategic plan for the reinforcement of the General Labour Inspectorate with a view to improving the enforcement of labour legislation. The Committee also notes the Government's indication that action has been taken since 2017, with ILO technical assistance, with a view to determining a National Wage Policy based on tripartite social dialogue and ensuring effective compliance with the minimum wage in both the formal and informal economies. However, the Committee observes the indication by the CACIF in its observations that there has been no progress in the development of the National Wage Policy. In this regard, the Government indicates that there is currently a proposed Bill and that a road map has been developed with a view to its adoption.

The Committee also notes that in December 2018 a paper was presented on the statistical definition of the informal sector and informal employment in Guatemala, with a view to establishing a concept of the informal economy in the country, in accordance with the most recent recommendations of the ILO International Conference of Labour Statisticians (ICLS). The Government also reports the implementation of a pilot plan for formalization involving traders in the informal economy in the municipalities of Tecpán and Chimaltenango. Finally, the Committee notes the measure taken for the provision of assistance to informal economy workers in the context of the COVID-19 pandemic. ***The Committee requests the Government to continue providing detailed and updated information on the scope of the informal economy and on the nature and impact of the measures adopted under the PNED to facilitate the transition to the formal economy, particularly in rural areas of the country, including those adopted within the context of the National Formalization Strategy.***

Rural employment. The Committee notes that, according to the ENEI, in the first quarter of 2019, 31.9 per cent of the economically active population were engaged in activities in the agricultural, stock-raising and forestry sector, and the open underemployment rate in the sector was 36.2 per cent. The Committee observes that the priority action set out in PNED includes the preparation of the "Rural Development Plan, An Agricultural and Stock-raising Revolution", with a view to promoting decent work in rural areas with the participation of producers' associations through the implementation of productive investment plans for rural areas and technological packages. The Committee also notes the information provided by the Government on the findings of the diagnosis of decent rural youth employment undertaken by the OML with the cooperation of the United Nations Food and Agriculture Organization (FAO). The objective of the diagnosis was to identify opportunities for the generation of employment and self-employment in rural areas, identify occupational trends and training needs and design proposals for interventions through active employment policies focusing on rural youth employment. The Government adds that progress has also been made in the accessibility of employment guidance and placement services in rural areas, as there is at least one employment manager in each of the 22 departments of the country. Moreover, a rural focus has been adopted for the Municipal Employment Single Windows (VUMES) located in municipal areas with a scarce network of enterprises with the objective of providing support to persons living in rural areas and engaged in agricultural activities. The CACIF considers that it is necessary to establish annual targets for the VUMES as a means of measuring their outreach and impact with a view to developing strategies to promote and generate formal employment in rural areas. In this regard, the Government indicates that the intervention strategy of the VUMES includes quality standards and follow-up and measurement indicators, as well as annual targets for the number of beneficiaries to be provided with support in relation to the needs of each area. The Government also refers to the implementation of the Rural Education Project V (PROEDUCV) with the support of the Development Bank of the Federal Republic of Germany (KfW). The objective of the project is to improve the supply of technical education with a view to promoting the access of young persons with few resources, and particularly rural and indigenous young persons, to training for quality employment adapted to the needs of the labour market. The Committee notes that the Trade Union Movement in its observations denounces the precarious conditions of workers in the agricultural sector. It also denounces the existence of child labour in the sector, including in palm oil enterprises, and irregularities in their investigation. ***The Committee***

requests the Government to continue providing information on the nature, scope and impact of the measures adopted to promote rural employment, including updated statistics disaggregated by sex, age, socio-occupational category, economic sector and region. With regard to the concerns expressed by the Trade Union Movement in relation to the precarious working conditions and existence of cases of child labour in plantations, the Committee refers the Government to its [2021 comments on the Plantations Convention, 1958 \(No. 110\)](#), and requests the Government to provide detailed and updated information on the inspections carried out in plantations, including the violations of labour standards reported.

Nigeria

Employment Service Convention, 1948 (No. 88) (ratification: 1961)

Previous comment

Articles 1 and 3 of the Convention. Contribution of the employment service to employment promotion. The Committee notes that the attachments mentioned in the Government's report have not been provided. The Committee recalls the Government's previous indication that the revised National Employment Policy (NEP), adopted on 19 July 2017, provides for the establishment of at least two community employment centres (CECs) in all local government areas in the country, which are intended to provide a full range of employment services to jobseekers in both rural and urban areas, including training, referrals, career counselling and information on job vacancies. In this context, the Committee notes the Government's clarification that there are 774 local government areas in the country rather than 744, as previously reported. The Government also indicates that the labour offices in the country's 36 states (including in the Federal Capital Territory) each have a section that serves as a public employment centre. ***The Committee reiterates its previous request that the Government provide specific updated information on the nature, scope and impact of measures taken or envisaged to implement the provisions of the National Employment Policy (NEP) with respect to the structure and functioning of the employment service. It also once again requests the Government to provide statistical information disaggregated by age and sex, on the number and location of public employment offices that have been established and are in operation, the number of new staff recruited for these offices, the number of applications for employment received, the number of vacancies notified, and the number of persons placed in employment by such offices. The Committee also reiterates its request that the Government indicate the manner in which the employment service, in cooperation with the other public and private bodies concerned, ensures the best possible organization of the labour market with a view to the achievement and maintenance of full, productive and freely chosen employment.***

Articles 4 and 5. Consultations with the social partners. The Committee welcomes the Government's indication that a National Labour Advisory Council (NLAC) has been inaugurated, and that issues related to Articles 4 and 5 of the Convention will be discussed at the NLAC's meetings. ***The Committee requests the Government to provide information on the procedures adopted for the appointment of workers' and employers' representatives to the National Labour Advisory Council (NLAC), as well as on the consultations held within the NLAC regarding the organization and operation of the employment service. The Committee also requests the Government to indicate whether and to what extent measures have been taken to establish committees at the regional or local level as contemplated in Article 4(2) of the Convention.***

Article 6. Organization of the employment service. The Committee had previously noted that some of the employment exchanges and the professional and executive registries in place had been upgraded to model job centres. ***Noting that the Government has not provided information in response to its previous comments, the Committee reiterates its request that it provide updated detailed information,***

including disaggregated statistical data, on the impact of the reorganization and restructuring of the employment service under the National Employment Policy (NEP), as well as up-to-date information on the operation of the job centres and their contribution towards meeting the needs of workers and employers, especially in regions with high levels of unemployment. The Committee also requests the Government to provide updated information in relation to the operation of the job centres in all 774 local government areas, including the number and location of community employment centres (CECs), the number and distribution of staff, the training provided to them, and the impact of their activities in ensuring the best possible organization of the national labour market. In addition, the Government is requested to provide information on any additional measures taken or envisaged to respond to the needs of workers and employers throughout the country, particularly in those regions of the country with high levels of unemployment.

Article 7. Particular categories of jobseekers. The Committee had previously noted the provisions in sections 4.7.3 and 4.7.4 of the NEP, which called for the Government to develop and implement a range of measures to ensure the increased participation of women and young persons in the workforce and the full employability of persons with disabilities. In this context, the Committee welcomes the adoption in 2018 of the Discrimination Against Persons with Disabilities (Prohibition) Act, as envisaged under section 4.7.4 of the NEP. It notes that the Act prohibits discrimination on the ground of disability by any person or institution in any manner or circumstance (section 1(1) of the Act), and provides that a person with a disability has the right to work on an equal basis with others, including the right to the opportunity to gain a living by work freely chosen or accepted in an open labour market and work environment (section 28(1)). The Act also establishes the National Commission for Persons with Disabilities, whose powers include the establishment and promotion of inclusive school, vocational and rehabilitation centres for the development of persons with disabilities, as well as receiving complaints made by persons with disabilities with respect to the violation of their rights (section 37(j) and (n)). **The Committee requests the Government to provide detailed information, including statistical data disaggregated by age and sex, on the impact of the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018 on access to employment services, as well as any other measures adopted or envisaged to promote the employment of persons with disabilities on the labour market. Referring to its previous comments, the Committee also requests the Government to provide detailed updated information on the nature, scope and impact of measures taken to promote women's employment, including in the framework of the self-employment promotion programmes for women mentorship and the gender-specific career counselling services.**

Article 8. Employment of young persons. With respect to measures taken to promote youth employment, the Government reports that section 1(2) of the Finance Act of 2020 establishes an exemption from the payment of the tertiary education tax for small companies with a turnover of up to 25 million naira (approximately US\$58,100), with the aim of encouraging youth entrepreneurship. It further indicates that the Nigerian Youth Investment Fund (NYIF) provides a sustainable pool of resources through which young people can access capital support for their businesses. The Committee notes with **interest** the adoption of the Nigerian Youth Employment Action Plan 2021-2024 (NIYEAP), developed with the support of the Office, and which is centred around four priority areas of intervention: employability, entrepreneurship, employment and equality of opportunity. It also notes that the NIYEAP is informed by the ILO Call for Action on Youth Employment and aligned with the Global Initiative on Decent Jobs for Youth. The NIYEAP's strategic lines of action in relation to employment include strengthening online and offline career information, counselling and guidance services, promoting availability of accurate up-to-date information on jobseekers and vacancies and increasing the capacity of resource and service centres. **The Committee requests the Government to provide detailed updated information, including statistical data disaggregated by age and sex, on the impact of the measures taken by the employment services to assist young persons in securing lasting employment and decent work. The Committee further requests the Government to communicate information in relation to**

vocational guidance, education and training and employment placement services or other relevant services offered by the public employment service with a view to enabling young persons to acquire the necessary skills to enable them to access opportunities for sustainable, decent and freely chosen employment. It reiterates its request that the Government provide information on the specific services and activities provided by the employment service with a view to achieving the objectives set out in section 4.7.1 of the National Employment Policy (NEP), namely generating employment opportunities and promoting skills acquisition for young persons.

Article 10. Measures to encourage the full use of employment service facilities. The Committee notes that the Government does not provide information responding to its previous comments on this point. ***The Committee therefore once again requests the Government to provide detailed information on the measures taken or envisaged by the employment service in collaboration with the social partners to encourage the full use of employment service facilities, including specific examples of activities carried out to reach out to employed and unemployed persons throughout the country.***

Article 11. Cooperation between public and private employment agencies not conducted with a view to profit. The Government reports that there is effective cooperation between the public employment service and private employment agencies (PEAs). In this respect, it indicates that: (i) annual national workshops are organized for PEAs, in collaboration with the Human Capital Providers Association of Nigeria (HuCaPAN), on the topics of labour administration, decent work, labour market information and challenges faced by PEAs in the field; (ii) stakeholder meetings are organized with the aim of encouraging exchanges of ideas; (iii) the Ministry monitors PEAs on a yearly basis; and (iv) the HuCaPAN occasionally donates working materials to support the private employment services. ***The Committee requests the Government to continue providing up-to-date information on the measures adopted or envisaged to promote and maintain cooperation between the public employment service and PEAs not conducted with a view to profit, including with respect to the content and outcome of the annual national workshops held between the public employment service and PEAs.***

Republic of Korea

Employment Policy Convention, 1964 (No. 122) (ratification: 1992)

Previous comment

The Committee notes the observations of the Korea Enterprises Federation (KEF) submitted with the Government's 2019 and 2020 reports and the Government's responses thereto. The Committee also notes the observations of the Korean Confederation of Trade Unions (KCTU) received on 20 September 2019. ***The Government is requested to provide its comments in this respect.***

Articles 1 and 2 of the Convention. Overall labour market trends. The Committee notes the information provided by the Government on labour market trends, indicating that the labour participation rate for persons 15 to 64 years of age increased from 63.2 per cent in 2017 to 63.3 per cent in 2019. It adds that the overall employment rate for persons 15–64 increased year-on-year, from 66.6 per cent in 2017 to 66.8 per cent in 2019, whereas the overall unemployment rate increased slightly, from 3.7 per cent in 2017 to 3.8 per cent in 2019. The Committee notes that, according to data available to the ILO Statistics Department (ILOSTAT), as of 2021, the labour participation rate had declined only slightly from 2019 pre-pandemic levels, reaching 63.1 per cent (72.7 per cent men and 53.7 per cent women). It also notes that, while the overall unemployment rate remained relatively stable, declining to 3.6 per cent from 2019 to 2021, the unemployment rate for young persons aged 15–24 in 2021 was more than twice as high as that of the 15–64 age bracket, reaching 8.1 per cent during this period. In respect of active labour market measures, the Government refers to the adoption of the Plan to Develop Public Employment Service in June 2019. Currently, there are 989 public employment service centres operated by eight ministries and an additional 232 centres operated by local governments. In addition,

a plan to achieve innovation in vocational skills development was adopted in April 2019. The annual number of trainees among jobseekers and unemployed persons participating in vocational training programmes was 280,000 in 2019, while the number of employed persons participating in such programmes was 294,000. The Government indicates that the Minister of Employment and Labour formulates a basic employment policy plan every five years in accordance with the Basic Employment Policy Act. ***The Committee requests the Government to continue to provide comprehensive updated information on overall labour market trends, including statistical data disaggregated by sex and age, relating to employment, unemployment and underemployment. It further requests the Government to continue to provide detailed updated information regarding the nature, scope and impact of active labour market measures implemented to promote full, productive and freely chosen employment in the Republic of Korea.***

Measures addressing dualism in the labour market. The Government reports that the share of non-regular workers among wage workers increased by 3.9 per cent from 32.5 per cent in 2013 to 36.4 per cent in 2019. Among non-regular workers, the number of temporary and part-time workers increased, while the number of non-standard workers, such as dispatched and agency workers decreased. The Committee notes that the Policy Directions for Referral Workers in the Private Sector were adopted and came into force on 4 December 2019. Moreover, the Committee notes that, in the private sector, the Government provides subsidies to small and micro enterprises (SMEs) to assist them in converting non-regular workers into regular workers. The proportion of voluntary non-regular workers also increased. In this respect, the Committee notes the information provided by the Government on the measures taken to convert non-regular workers in the public sector into regular workers. As of May 2020, the converting process for 181,000 non-regular workers reached 95.4 per cent of the target number of 205,000. Moreover, in smaller organizations, 5,743 out of 6,195 non-regular workers were converted to regular status. Moreover, in the private sector, the Government provides subsidies to small and micro enterprises (SMEs) to assist them in converting non-regular workers into regular workers. However, the Committee notes that the Government does not provide information on the status of the proposed amendments to the Act on the Protection of Dispatched Workers. It notes that, according to the observations of the KCTU, a significant percentage of non-regular workers in the public sector were converted to regular status by newly established subsidiaries of public institutes, whose main function is to hire these workers to work for their parent companies. The KCTU points out that this leaves the converted workers in triangular employment relationships, in which they are classified as a category separate from that of regular workers and subject to a different system of wages. The KCTU expresses the view that the policy support provided by the Government to promote the voluntary conversion of non-regular workers in the private sector to regular workers to be limited and short-term in nature. The Committee notes that, according to the 2021 OECD Inclusive Growth Review of Korea: Creating Opportunities for All, despite the Government's efforts, labour market dualism remains a key challenge. The report indicates that the proportion of non-regular workers remains high, with women, young persons and older workers being disproportionately employed in non-regular employment, where they earn approximately one-third less than regular workers. Only 70.8 per cent of non-regular workers are covered by unemployment insurance. Temporary workers earn less than 60 per cent of the hourly wage of a regular worker and have lower probabilities of moving into regular employment than unemployed persons. In this context, the Committee notes that the Government does not provide information on the status of the proposed amendments to the Act on the Protection of Dispatched Workers. In addition, the Committee notes the observations of the KCTU, in which it notes that the Government's efforts to promote flexible working hours is one of the main reasons for the low-wage structure in Korea, leading to a decline in the quality of employment. It adds that, despite efforts made to reduce working hours in recent years, this has been offset by employers' recourse to flexible hours and special exceptions which allow employers in specific industries to have workers continue to work beyond the legally permitted maximum hours and/or to change the length of their breaks. ***The Committee requests the Government***

to intensify its efforts to reduce labour market dualism in both public and private sector with a view to creating full, productive and lasting employment opportunities for both regular and non-regular workers. It also requests the Government to continue to provide detailed updated information on progress made or results achieved in this regard, including information on the status of the amendments to the Act on the Protection of Dispatched Workers. In addition, the Committee requests the Government to indicate the measures taken to address the concerns raised by the Korean Confederation of Trade Unions (KCTU) with respect to the wage structure, working hours and quality of jobs in the industries eligible for special exceptions.

Job creation policy and the COVID-19 pandemic. The Committee notes the Government's indication that the "Five-year Job Policy Roadmap" was adopted in October 2017, establishing job creation as a national priority. As implementing measures taken under the Roadmap, the employment rate and the number of the employed for the overall population increased. The Government nevertheless indicates that the country is facing economic recession and employment shock due to the COVID-19 pandemic. In response to the difficulties in the labour market, the Government invested approximately 12 trillion won to develop and actively carry out additional measures to stabilize employment and create jobs, by expanding employee retention subsidy, designating sectors to receive special employment support, deferring the deadline for social insurance contributions, introducing emergency employment stability subsidies, a loan for the employment retention fund and providing subsidies under labour-management agreements to maintain employment. In addition, the Government established and implemented the "Korea New Deal Initiative" in July 2020 to protect jobs and to support domestic demand. In particular, the Initiative aims to expand the employment and social safety net to better protect those who are particularly vulnerable in time of crisis. The KEF indicates in its observations that, although the government estimates that employment indicators such as the employment-to-population ratio continue to improve since various measures to support employment have been implemented, the number of employed persons has been decreasing since the pandemic began. ***Noting the difficulties in labour market due to the COVID-19 pandemic, the Committee requests the Government to continue its efforts to create full, productive and sustainable employment opportunities for all, particularly the most vulnerable during the crisis. It also requests the Government to continue to provide information on the nature of the measures taken and results achieved in this regard. The Committee also requests the Government to provide information on the role of the social partners during the development and implementation of these measures.***

Youth employment. The Committee notes that, according to the observations of the KEF, it is necessary to improve the assessment of the employment impact of the measures taken in respect of youth employment, and to better manage and monitor the existing subsidies, such as allowances for young job seekers, so that they are used for their purpose. The Committee notes the Government's response to the KEF's observations, indicating that it recognizes the recent rise in the extended unemployment rate of young persons, from 21.7 per cent in 2016 to 23.8 per cent in 2019, and that market response to measures taken is lagging behind actual progress. The Government indicates that there has nevertheless been continuous improvement of the youth employment indicators year on year. It adds that the youth unemployment rate also shows an overall decreasing trend despite some fluctuations. The Government further states that it is facing the biggest challenge to youth employment over the next three to four years due to demographic changes, with a large number of young persons entering labour market. To address this challenge, a youth employment strategy was developed in March 2018, focusing on providing strong incentives for companies to hire young persons and addressing problems in the job-seeking process. The Government also refers to the implementation of various initiatives, including the K-Digital Training Programme, to provide training through business, universities and institutions equipped with innovative technologies and training capacity, with the aim of fostering 180,000 young persons in high-tech industries. In particular, tailored vocational training and employment support are provided to youth not in employment, education or training through the

Naeil Irum (achieve tomorrow) School Programme. The Committee notes that, on 27 August 2021, the Government introduced amendments to the Special Act on the Protection of Youth Employment, which extended the regulations on the employment of unemployed youth in public institutions for a two-year period. Pursuant to section 5 of the Special Act, public institutions are required to employ unemployed young persons (15-34), who must constitute 3 per cent of their total workforce. The Committee also notes steps taken by the Government to diversify the programmes offered by the Youth Advancement Support Project, which supports young persons who have given up on finding a job or are experiencing job anxiety and depression, as well as the Youth Job Leap Incentive, which provides support to SMEs to encourage them to employ young people facing difficulties in entering the labour market. In the context of the COVID-19 crisis, the Government increased the number of recipients of the youth job search allowance from 50,000 to 100,000 persons and the employment success package programme from 50,000 to 130,000 persons. Additional budgets have also been allocated through the additional youth employment subsidy program, providing support to 90,000 persons. ***Noting the increasing number of young persons seeking to enter the labour market, the Committee requests the Government to strengthen its efforts to promote the long-term integration of young persons in the labour market, including educated young persons and other categories of young people who encounter difficulties in finding employment. It also requests the Government to continue to provide information on the measures taken or envisaged in this regard, as well as any progress made or results achieved.***

Employment of women. The Committee notes the information provided by the Government on the adoption of the 6th Basic Plan for Equal Employment to improve the quantity and quality of employment of women in December 2017 and its implementation, by providing systematic support for maternity protection, promoting a discrimination-free working environment and supporting work-life balance. Various measures are being taken under the 6th Basic Plan, such as extending the scope of application of the Equal Employment Opportunity Act to all workplaces, strengthening protection and monitoring of sexual harassment at work, imposing obligations on employers to address the gender wage gap, promoting education that is free of gender stereotypes, providing re-employment support for women whose careers have been interrupted, as well as increasing parental leave benefits and extending the paid paternity leave from 3 days to 10 days. The Committee also notes the Government's indication that the employment rate of women is continuously increasing, notably among women in their 30s, from 55.5 per cent in 2013 to 60.7 per cent in 2019. However, the Committee notes that, despite the reduced gap, the overall employment rate of women 15 to 64 is still significantly lower than that of their male counterparts, increasing from 70.7 per cent in 2019 to 72.7 per cent in 2021 for men and from 51.6 per cent in 2019 to 53.7 per cent in 2021 for women. The Committee further notes that, according to the observations of the KCTU, women account for 55.6 per cent of all non-regular workers and this proportion has been steadily increasing since 2003. The KCTU indicates that, after their job breaks due to marriage and pregnancy, women re-enter the labour market through precarious and irregular jobs, working for limited terms or in part time in cleaning, domestic work and service jobs. The Committee notes that, according to the 2021 OECD report, while the gender wage gap has declined significantly since 1992, from 47 per cent in 1992 to 32 per cent in 2019, at 32 per cent it is still the highest among the OECD countries. Against this backdrop, the Committee notes that, pursuant to the revision of the Gender Equality Act and the Labour Relations Commission Act adopted on 21 May 2021, the Labour Relations Commission Correction system to Address Gender Discrimination in Employment came into effect on 19 May 2022. In addition to imposing penalties on employers for gender discrimination in employment, the correction system allows workers who have been subjected to discrimination to apply for and receive redress, including improvement of working conditions and appropriate compensation. ***The Committee requests the Government to strengthen its efforts to increase women's participation in the labour market, particularly in full, productive and sustainable employment, and to provide updated comprehensive information on the nature and impact of measures taken. Recalling its previous comments regarding the Workers with Family Responsibilities Convention, 1981 (No. 156), the***

Committee also requests the Government to continue to provide information on measures taken or envisaged to assist both female and male workers to reconcile their work and family responsibilities.

Employment of older workers. The Committee previously noted that retired employees continue to work in non-regular and part-time positions until their late sixties due to an inadequate social safety net, and that measures were taken to strengthen the outplacement and re-employment services to older workers with lifetime planning and vocational skills, including through the wage peak system. The Committee notes the Government's indication that an analysis of the employment effect of the subsidy for employing older workers and the mid-long term policy direction for employment stability of older workers, carried out by the Korea Labour Institute in 2017, shows that the wage peak system has an overall positive impact on employment of older workers. The Government also indicates that tailored training programmes are provided to older workers, however, it is hard to measure the number of persons placed in employment as a result of the customized training, due to the lack of accumulated data samples of trainees. The Committee also notes that the statistic information provided by the Government shows an overall increase from 2013 to 2018 in the employment rate of older workers, from 73.2 per cent to 75.2 per cent among those aged 50-59 and from 38.4 per cent to 40.1 per cent among those aged 60 and over. The Committee notes that, according to the 2021 OECD report, at 34 per cent, the employment rate of workers over 65 in Korea is twice the OECD average. The report also notes, however, that low job quality for older Koreans remains a significant challenge, with many retired workers finding new employment in precarious and low-paid jobs, or in self-employment. The 2021 OECD report notes that Korea is well above the OECD average, reaching 45.7 per cent of those over 65 years of age. **The Committee requests the Government to continue to provide detailed information on the measures taken to promote productive employment opportunities for older workers and their outcomes. It also requests the Government to continue to provide statistical information on employment creation, job placement results and income levels of older workers.**

Migrant workers. The Committee notes the absence of information in this regard. **Recalling its previous comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Committee once again requests the Government to provide information on the situation of migrant workers in the labour market.**

Article 3. Participation of the social partners. Following its previous comments, the Committee notes the Government's indication that social partners participate in the formulation and implementation of employment policies through meetings held within various tripartite structures. In particular, the ESLC was established in November 2018. A tripartite joint implementation monitoring group was formed at the ESLC to monitor the implementation of the Tripartite Jobs Pact. In July 2020, a tripartite agreement was concluded to overcome the COVID-19 crisis through the ESLC aiming to maintain jobs. The implementation of this agreement is monitored by a special committee established in August 2020. **The Committee requests the Government to continue to provide information on consultations held with the social partners on the matters covered by the Convention. It also requests the Government to provide detailed information on consultations held with representatives of the persons affected by employment policy measures, and representatives of workers in non-standard forms of employment.**

Romania

Employment Policy Convention, 1964 (No. 122) (ratification: 1973)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Employment trends and active labour market policies. The Committee notes the Government's indication that the overall employment rate for the active population (15-64 years) reached 66.0 per cent in the third quarter of 2020, showing an upward trend compared to 63.9 per cent in 2017. It also notes the persistently lower employment rates for women in 2017 (55.8 per cent for women

compared to 71.8 per cent for men) and in the third quarter of 2020 (56.9 per cent for women compared to 74.9 per cent for men). The Committee notes that, according to ILOSTAT data, the overall unemployment rate in 2020 was 5 per cent (5.3 per cent for men and 4.7 per cent for women, respectively). The Government refers to the Human Capital Operational Program (HCOP) as an important tool for financing employment measures, structures in seven priority axes, including employment (axes 1, 2 and 3), social inclusion (axes 4 and 5), education (axis 6) and technical assistance (axis 7). The Government also indicates that Act No. 76/2002 on the unemployment insurance system and employment stimulation during the period 2016–18 was amended, with the aim of increasing employment opportunities for registered unemployed persons and jobseekers and stimulating employers to hire registered unemployed persons. The Committee notes that job subsidies are provided to employers who offer employment opportunities to specific groups of workers, including new graduates, persons with disabilities, registered unemployed persons over the age of 45, long-term unemployed persons, young people in the NEET category (not in employment, education or training), youth at risk of social marginalization and unemployed single parents. ***The Committee requests the Government to continue providing updated detailed information on general employment trends, including statistical data disaggregated by sex and age. It further requests the Government to continue providing information on the impact of its employment policy measures in terms of the creation of productive employment and decent jobs, job creation, particularly for specific groups such as women, youth at risk of social marginalization, persons with disabilities, older workers and the long-term unemployed.***

Youth employment. The Committee notes that the unemployment rate of youth (15–24 years) stood at 18.3 per cent in 2017, rising to 19.2 per cent in the third quarter of 2020. Moreover, according to the 2020 European Commission Country Report for Romania (SWD (2020) 522 final), in 2018 the percentage of young people not in education, employment or training (NEET) was one of the highest in the European Union, with three times as many NEETs among the young rural resident population (15–24) compared to those living in urban areas. The Government indicates that, as part of its efforts to support the labour market integration of young persons, particularly those in the NEET category, the Ministry of Labour and Social Justice elaborated the Youth Guarantee Implementation Plan 2017–2020. The Government also reports that it approved a draft Youth Law on 5 July 2018 which was sent to Parliament. ***The Committee requests the Government to continue providing updated detailed information, including statistical data disaggregated by age, sex and rural/urban areas on the nature and impact of the measures taken to facilitate lasting employment opportunities for young people, especially those classified as NEETs. It also requests the Government to provide information on progress made regarding the adoption of the new Youth Law, and to provide a copy once adopted.***

Roma minority. The Committee notes the Government's reference to the Strategy for the Inclusion of Romanian citizens belonging to the Roma Minority 2012–2020 as well as to axes 4 and 5 of the HCOP, which focus on reducing social exclusion. The Government indicates that the National Agency for Employment is responsible for implementing measures taken to attain the employment objectives, based on annual employment programs. Measures taken include the provision of information on employment services in communities with large numbers of Roma, allocation of territorial budgets, job exchanges and development of collaboration with Roma representatives. The Committee notes that the Government exceeded its target of providing employment to 5,385 members of the Roma community in 2015, with 6,295 Roma being placed in employment; however, the targets set for 2016 and 2017 were not fully achieved. ***The Committee requests the Government to continue to provide updated detailed information, including statistical data disaggregated by sex and age, on the nature and impact of the measures taken to promote access to lasting employment and decent work for members of the Roma community.***

Article 3. Participation of the social partners in the formulation and implementation of policies. The Committee previously requested the Government to provide specific examples of how the social partners are effectively consulted and participate in decision making on the matters covered by the Convention. In this respect, the Committee notes the Government's reference to the development of the Youth Guarantee Implementation Plan, indicating that the social partners were consulted during this process. The Government also indicates that social partners and non-governmental organizations play an important role in the implementation of various programmes and projects related to employment, promotion of youth-related initiatives, training ventures, job placement, apprenticeship and traineeship programmes. The Committee further notes that the National Employment Program, developed each year by the National Agency for Employment since 2002, is formulated on the basis of proposals from the county employment

agencies and the Bucharest Municipality Agency, taking into account the economic and social situation at the territorial level and the strategic targets in the programmatic documents adopted at national level. The Government indicates that the National Employment Program targets specific groups that encounter difficulty in accessing the labour market, such as members of the Roma community, persons with disabilities, young persons covered by the child protection system, foreigners, refugees and beneficiaries of other forms of international protection, persons who have executed custodial sentences and victims of trafficking. ***The Committee requests the Government to provide updated information on the manner in which the social partners are effectively consulted and participate in the development of the National Employment Programme each year. It also requests the Government to provide information on the measures taken or envisaged to ensure that these consultations include representatives of other segments of the economically active population, including representatives of the Roma community, persons with disabilities, women and young persons, as well as of persons working in informal economy.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Uganda

Employment Policy Convention, 1964 (No. 122) (ratification: 1967)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Coordination of employment policy with poverty reduction. The Committee previously requested information on the second National Development Plan 2015/16–2019/20 (NDPII), including on the results of programmes aimed at stimulating growth and economic development, raising living standards, responding to labour force needs and addressing both unemployment and underemployment. The Government's report does not contain information on the NDPII, instead it refers to continued challenges such as the gender pay gap, lower wages in rural areas than in urban areas, and comparatively low labour productivity. The Committee notes with ***interest*** the adoption of the third National Development Plan 2020/21–2024/25 (NDPIII), whose principal goal is "Increased Household Incomes and Improved Quality of Life of Ugandans". According to the NDPIII, the proportion of the labour force in paid employment increased between 2011/12–2016/17, and enrolment in business, technical and vocational education and training increased significantly. The NDPIII nevertheless indicates that labour underutilization remains a challenge, as a large number of Ugandans are underemployed. The Committee notes that, according to the ILOSTAT database, as of 2017, the overall unemployment rate in Uganda stood at 9.8 per cent (8.4 per cent for men and 11.7 per cent for women, respectively). The labour force participation rate was 49.1 per cent in the same year, with a higher participation rate for men than for women (56.9 and 41.8 per cent, respectively). The ILOSTAT database also indicates that the composite rate of labour underutilization for 2017 stood at 30.9 per cent. In this context, the Committee notes that the five strategic objectives of the NDPIII include strengthening the private sector's capacity to drive growth and create jobs, as well as enhancing the productivity and social well-being of the population. ***Noting the continued challenges identified by the Government in its report, the Committee requests the Government to provide detailed updated information on the active labour market measures taken and the results achieved in the implementation of the NDPIII, in terms of stimulating growth and economic development, raising living standards, responding to labour force needs and addressing unemployment and underemployment. The Committee further requests the Government to provide up-to-date statistics on current trends regarding employment, unemployment and underemployment, disaggregated by sex, age, religion, economic sector and region.***

Impact of COVID-19. The Committee notes that, according to a 2020 report from the World Bank, fiscal year 2020 saw a real GDP growth of 2.9 per cent in Uganda, less than half of the 6.8 per cent recorded in fiscal year 2019, mainly due to the impact of the COVID-19 crisis. The World Bank further indicates that employment recovered following the easing of mobility restrictions, with an increase in the share of employment in agriculture, but that it had not returned to previous levels in urban areas. ***The Committee requests the Government to provide further information on the nature and impact of response and recovery***

measures taken in the context of the COVID-19 pandemic with a view to promoting inclusive sustainable employment and decent work. The Committee requests the Government to provide information on the challenges encountered and the lessons learned in this context.

Promotion of youth employment. The Committee previously requested information on the measures envisaged or adopted to reduce the unemployment rates of young people as well as the proportion of young people in informal employment. In this respect, the Committee notes that, as of June 2020, according to the NDPIII, the youth unemployment rate stood at 13.3 per cent, and that it seeks to reduce this rate to 9.7 per cent unemployment by the end of the five-year period. According to the NDPIII, there is a large youth population in Uganda (78 per cent); however, a mismatch exists between the skills required by the labour market and the knowledge taught by training institutions. The Committee notes the high proportion of young people in informal employment. The NDPIII indicates that most non-farming employment is in the informal sector (91 per cent), with young people occupying 94.7 per cent of these jobs. The NDPIII envisages various new projects related to youth employment for the period 2020/21–2024/25, including the Youth Livelihood Programme Phase 2 and the Micro, Small and Medium Enterprise Nurturing for Youth Employment Project. The Committee notes the adoption of the Technical and Vocational Education and Training (TVET) Policy in 2019, which aims to reform the TVET system. The TVET Policy establishes a number of objectives, including improving the quality of the TVET system and strengthening the role of employers and business communities in TVET delivery. The Committee notes that, to promote the economic relevance of TVET, the TVET Policy calls for establishing and linking the TVET Management Information System to the Labour Market Information System as well as to promote lifelong learning opportunities for TVET. **The Committee encourages the Government to pursue its efforts to address the issues related to youth employment identified in the NDPIII, including the skills mismatch and measures to anticipate the future needs of the labour market in the provision of TVET. It requests the Government to provide detailed information on the nature of programmes and projects implemented to promote youth employment, including in the field of TVET and in the context of the NDPIII, and their impact on access for young people to sustainable employment and decent work. In this regard, the Committee requests the Government to provide up-to-date statistics on youth employment and unemployment rates, disaggregated by sex, age, urban versus rural areas and education level, where available.**

Promotion of women's employment. In its previous comments, the Committee requested information on measures to combat persistent occupational segregation on the basis of sex and to increase the participation rate of women in the formal labour market. The Committee notes that the Uganda Women Empowerment Programme supported 43,977 women beneficiaries through 3,448 projects in the fiscal year 2017–18. The Committee nevertheless observes that the information contained in the NDPIII, also indicates that many women do not have access to arable land, and suggests that gender inequalities persist in the country, including in employment and education. The Government also provides statistics from 2016 indicating that disparities exist in the share of women and men in employment, with men accounting for most of paid employment, while women constitute the majority of the self-employed population. The Committee notes that, in its concluding observations of 12 May 2016, the Committee on the Rights of Persons with Disabilities expressed concern that women with disabilities face multiple forms of discrimination, noting the lack of measures for the development, advancement and empowerment of women and girls with disabilities and expressing concern about the few opportunities open for employment for persons with disabilities (document CRPD/C/UGA/CO/1, paragraphs 10 and 52). **As regards discrimination against women, including with respect to access to resources, the Committee refers the Government to its comments adopted in 2020 under the Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). In addition, the Committee requests the Government to continue to take the necessary measures, including in the context of the NDPIII, to promote access for women to full, productive and freely chosen employment. The Committee requests the Government to provide information on the results achieved through such measures, including statistics on the participation rate of women, including women with disabilities, in the informal and formal labour market.**

Informal economy. The Committee notes that the Government refers to exclusions from social protection and other critical challenges existing in the informal sector, including gaps in social dialogue, widespread labour rights violations and decent work deficits. The Government nevertheless states that there is political commitment and will to overcome these challenges. In this regard, the Committee notes that the

NDPIII includes a Private Sector Development Programme which has, as one of its key expected results, the reduction of the informal sector to 45 per cent in 2024/25. According to the NDPIII, the private sector in Uganda is dominated by about 1.1 million micro-, small and medium-sized enterprises (MSMEs), which altogether employ approximately 2.5 million people. Furthermore, most of the country's start-ups do not last more than two years, because of factors such as inadequate entrepreneurial ability and low-skilled labour. The Committee notes that, according to 2020 data from the UN Capital Development Fund, the COVID-19 crisis is also likely to have an impact on informal workers, with an estimated 4.4 million informal sector workers losing their earning or seeing it fall below the poverty line. ***The Committee requests the Government to provide further information on the impact of COVID-19 on employment in the informal economy in Uganda, the active labour market measures taken to tackle the challenges identified, and the measures taken to extend access to justice, property rights, labour rights and business rights to informal economy workers and businesses. It also requests the Government to provide information on the nature and impact of employment programmes developed and implemented in the context of the NDPIII, including the Private Sector Development Programme.***

Article 3. Participation of the social partners. The Committee notes from section 1.4 of the NDPIII (approach and formulation process) that its strategic direction was informed by an extensive consultation process, based on background analytical work on past industrialization efforts and strategies, trends in key growth areas (agriculture, ICT, minerals, oil and gas), export and import performances, and sector priority papers, among others. The NDPIII also indicates that sector, regional, district and community level stakeholders were consulted in the formulation process, and that other stakeholders, including industrial and business owners, civil society, faith-based organizations and non-governmental organizations also participated in the process. ***The Committee requests the Government to provide further information on consultations held with employers' and workers' organizations in the formulation, implementation and monitoring of the NDPIII.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Ukraine

Employment Policy Convention, 1964 (No. 122) (ratification: 1968)

The Committee notes the observations of the Confederation of Free Trade Unions of Ukraine (KVPU), as well as the observations of the Federation of Trade Unions of Ukraine (FPU), received on 6 October 2022, concerning the application of the Convention.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. Implementation of an active employment policy. In its previous comments, the Committee requested the Government to provide information on how measures taken in the framework of the Government's action plan have translated into the creation of productive and lasting employment opportunities, and the impact of such measures taken to increase the participation of specific groups in the labour market, including women, young people, older workers and persons with disabilities. The Government reports that the employment rate in 2017 stood at 56.1 per cent, while the unemployment rate was 9.5 per cent. It indicates that, in light of these figures, the employment situation in Ukraine remains complicated, but there are signs of gradual stabilization. The Government states that 2017 saw a drop in the unemployment rate in ten provinces. In addition, the number of self-employed persons rose by 0.3 per cent and the number of persons in informal employment dropped by 299,100 persons. The Committee notes that, in order to assist jobseekers to find jobs more quickly and to meet employers' recruitment needs, the State Employment Service (SES) introduced new methods of working with clients, which have led to better outcomes in its main areas of work, including improved use of information technology. The Committee notes that the Cabinet of Ministers, through its Directive No. 275-r of 3 April 2017, approved a medium-term Plan of Priority Actions through 2020, whose objectives envisage a system to support a highly-skilled workforce. The SES is undergoing reforms to transform it into a client-oriented agency providing a wide range of services, including training that meets the needs of the economy, and new forms of vocational training for the registered unemployed. The Government indicates that Cabinet of Ministers Directive No. 418-r of 27

May 2017 reoriented the SES toward employment promotion, adding that there has been a shift in focus from paying unemployment benefits to getting unemployed persons back into the work force as rapidly as possible. The Government reports that, in 2017, the SES helped 783,000 persons to secure jobs, including: 350,000 women; 297,000 young people under the age of 35, 13,000 persons with disabilities and 92,000 older workers (those with ten or fewer years until retirement). The Government adds that of those who found work in 2017, 45 per cent found a job before they had been officially registered as unemployed. **The Committee requests the Government to continue to provide detailed, updated information, including statistical data disaggregated by sex, age and region, regarding the employment situation in the country. It further requests the Government to provide updated information concerning the activities of the SES, including with respect to the manner in which its placement activities have led to lasting employment opportunities. It also requests the Government to provide information on the manner in which those persons who found a job prior to registering with the SES as unemployed were placed in employment, whether this was through the SES or other channels. The Committee reiterates its request that the Government provide copies of legislation and regulations adopted or envisaged relevant to active labour market measures, including with respect to the nature and extent of State Employment Service Reforms. The Government is also requested to provide information on the impact of measures taken or envisaged to increase the participation of specific groups, including women, older workers, young persons, persons with disabilities, and the long-term unemployed.**

Coordination of education and training programmes with employment policy. The Committee observes that the Government's priority action plan emphasizes the need to modernize vocational guidance and training to increase the skills of the labour force and meet employers' needs, as well as to anticipate future labour market needs. In this respect, the Government reports that work began in 2017 to develop occupational standards to improve qualifications and enhance educational standards, bring training into line with employers' needs and validate informal education. The Committee also notes the information provided by the Government regarding measures taken to enhance the system of vocational training, retraining and skills development for unemployed persons to increase their employability. In addition, amendments were introduced in September 2017 to the Conceptual Framework of the State Vocational Guidance System to improve training for young persons. The Committee further notes the amendments to the Employment Act and the Arrangement for the Distribution of Vouchers to Support Employability, which expanded the categories of persons entitled to receive training vouchers. **The Committee requests the Government to provide information concerning initiatives taken in collaboration with the social partners to facilitate skills training and increase employability, as well as information on the impact of such initiatives in assisting unemployed persons to enter and remain in the labour market. The Committee further requests the Government to supply information on the manner in which forecasting of labour market needs is carried out on a regular basis and the measures taken to improve the coordination of anticipated labour market needs with education and skills development with the aim of avoiding skills mismatches. It also reiterates its request that the Government provide a copy of the legislation on "Professional Education" once it is adopted.**

Youth employment. In its previous comments, the Committee requested the Government to provide information about the impact and sustainability of the measures taken to tackle youth unemployment and promote the long-term integration of young persons in the labour market. The Committee also requested the Government to provide information regarding the measures taken or envisaged to prevent the use of discriminatory restrictions in job vacancy announcements, including restrictions on the basis of age. With respect to the employment situation of young persons, the Government reports that a total of 431,000 young persons were registered as unemployed in 2017 – 87,000 less than in 2016. It adds that, in 2018, this number fell to 122,000. The Government further reports that the SES placed 297,000 young persons in employment in 2017, noting that half of them were placed in employment before being officially registered as unemployed. Moreover, vocational guidance services were provided to 410,000 unemployed young persons, as well as to over one million persons studying at various institutions. The Committee notes the Government's indication that, to match the skills of jobseekers as closely as possible to the needs of employers, and at the request of employers, the SES organized vocational training for 53,000 people under the age of 35. In this way, 297,000 young people were helped by the SES to find a job and 61,000 young people started to work in community or in temporary works. However, the Committee notes that the Government does not provide any information about any possible measures taken or envisaged concerning discriminatory restrictions in job vacancy announcements. **The Committee requests the Government to**

continue to provide detailed information, including statistical data disaggregated by sex and age, concerning the employment situation of young persons in Ukraine. The Committee reiterates its request that the Government provide detailed information on measures taken to prevent and prohibit the use of discriminatory restrictions, including age restrictions, in job vacancy announcements, as well as on the manner in which such measures are implemented.

ILO technical assistance. The Committee notes the technical assistance provided by the Office with regard to the formulation of legislation on employment promotion as well as to the introduction of new definitions of jobseeker and unemployed in Ukraine's labour law. ***The Committee requests the Government to provide information on progress made in this regard, and to communicate a copy of the legislation when adopted.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Bolivarian Republic of Venezuela

Employment Policy Convention, 1964 (No. 122) (ratification: 1982)

Previous comment

The Committee notes the observations submitted jointly by the Confederation of Workers of Venezuela (CTV), and the Federation of University Teachers' Associations of Venezuela (FAPUV), the Independent Trade Union Alliance Confederation of Workers (CTASI), as well as the observations submitted by the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), transmitted together with the Government's report.

Articles 1 and 2 of the Convention. Implementation of the employment policy within the framework of a coordinated economic and social policy. Measures to respond to the economic crisis. The Committee takes note of the information provided by the Government regarding the measures adopted with a view to promoting and guaranteeing the protection and generation of employment in the country. The Government refers to the continued adoption of various decrees establishing security of employment for public and private sector workers for a period of two years, with a view to protecting and preserving jobs in the country. The Government once again indicates that during this period no dismissals may be made without just cause and dismissals may only be carried out in accordance with the procedures established in the labour legislation. The Government informs that the security of employment policy was extended until 2022. The Committee also notes that, in their observations, CTASI, CTV and FAPUV argue that the security of employment decrees do not generate jobs, since they are not always effective due to the small number of workers in the formal sector. FEDECAMARAS argues that the security of employment policy has a negative impact on productivity, which has led to a loss of interest among employers in hiring workers. FEDECAMARAS adds that, in order to achieve more efficient results in terms of employment and productivity, the policy should be adjusted to offer greater protection only to those workers who are in a situation of greater vulnerability.

The Committee notes, on the other hand, the Government's indications that a series of measures have been adopted with a view to implementing an ongoing wage protection policy that is adjusted to the economic reality of the country. In particular, the Government indicates that, under the last salary increase, the minimum wage was set at 130 bolívars per month as of 15 March 2022 and the minimum monthly amount that workers must receive through the "socialist cestaticket" food subsidy was set at 45 bolívars. The Government indicates that together the minimum wage and the "socialist cestaticket" constitute the minimum legal income to be received by workers, which has been increasing progressively. The Government also refers to the implementation of various social programmes aimed at protecting vulnerable households, such as the *Hogares de la Patria* (Homes of the Motherland) programme, through which a monthly subsidy is granted based on the number of members of the

family group. The Committee notes that, in its observations, FEDECAMARAS points out that the national minimum wage policy is not adjusted to the economic reality of the country, since the inflation rate reported by the Central Bank of Venezuela is much higher than the nominal adjustments to the minimum wage. In this regard, FEDECAMARAS states that, although 13 salary adjustments were decreed from 2013 to 2022, the minimum wage has fallen by 45.3 per cent. FEDECAMARAS points out that, taking into consideration the high inflation and the devaluation of the national currency, the minimum wage is equivalent to only US\$16 per month and the food subsidy to US\$5.85 per month.

Finally, the Government indicates that, during the reporting period, discussions were initiated in the National Assembly on 10 special laws for the benefit of specific categories of workers that are intended to complement the provisions of the Basic Labour Act (LOTT), including an Act on Domestic Workers, an Act on the Work of Persons with Disabilities and an Act on Home Workers. The Government indicates that it is expected that, within the framework of the public consultations held by the National Assembly in relation to this draft legislation, priority will be given to consultations with employers' and workers' organizations through an effective, open and inclusive dialogue. ***The Committee requests the Government to continue to provide detailed and updated information on the nature, scope and impact of the specific measures taken to develop and adopt an active employment policy aimed at promoting full, productive and freely chosen employment in full compliance with the Convention. The Committee also requests the Government to provide information on the status of the adoption of the ten special laws concerning specific categories of workers and to send a copy of these laws once they have been adopted.***

Labour market trends. The Committee notes the Government's indications that, in the first half of 2021, the employment rate was 91.1 per cent. In addition, the Government indicates that, from 2011 to the first half of 2021, the employment rate of women increased by 20.2 per cent, with a total of 5,205,275 women in employment. The employment rate of men also increased by 20.2 per cent, with a total of 8,190,482 men in employment. The Government indicates that, in the same period, the number of persons employed in the formal sector increased from 6,774,123 to 7,042,956, and the number employed in the informal sector increased from 5,230,828 to 6,352,801. The Committee notes CTASI, CTV and FAPUV's allegations that the informal sector is growing disproportionately due to the lack of opportunities in the formal sector. In this regard, they point out that, according to data from the national survey of living conditions (ENCOVI), between 2014 and 2021, formal employment decreased by 21.8 percentage points. They indicate that only 40 per cent of those employed are in the formal sector. Regarding unemployment levels, the Government reports that, between 2019 and 2021, the unemployment rate increased from 6.6 per cent to 8.9 per cent. The number of unemployed persons aged 65 years and over increased from 59,789 in 2019 to 147,679 in 2020. The Committee notes that, in its observations, FEDECAMARAS highlights the need to reconcile the figures from the different official sources to effectively determine the impact on employment of the economic downturn, the exile of more than six million Venezuelan citizens and the COVID-19 pandemic. FEDECAMARAS stresses that it is also necessary to review, update and jointly discuss the statistical information from different sources, both official and private, to serve as a basis for defining employment policy. ***The Committee requests the Government to continue to provide detailed information, including updated statistics, disaggregated by sex, age and rural and urban areas, on the labour market situation and trends, including on employment, unemployment and underemployment rates (visible and invisible) and informality. It also requests the Government to provide detailed and updated information on the functioning of the labour market information system, including information on how the data collected are used to design, implement and review the employment policy measures that have been taken or are planned.***

Education and training. The Committee notes the Government's indication that, through the Meeting Centres for Education and Work (CEETs), together with the implementation of various Missions and the National Institute for Socialist Training and Education (INCES), measures are provided for the

professionalization of workers, such as certification, accreditation, and vocational education and training. The Committee also notes the statistical information provided by the Government regarding the number of workers served by the CEETs, as well as the number of certifications awarded for inventiveness, innovation and improved productivity. However, the Committee notes that CTASI, CTV and FAPUV maintain that the training programmes provided have limited scope. In this regard, they point out that, according to data from the 2021 ENCOVI, the proportion of unskilled workers had increased from 9.7 per cent to 36 per cent over the preceding five years. Likewise, CTASI, CTV and FAPUV allege that the educational system is deteriorating due to the closing or inactivity of educational institutions, the exodus of teachers and students and the steady and growing decline in the number of students enrolled. CTASI, CTV and FAPUV indicate that, according to data from a study by the Andrés Bello Catholic University (UCAB), between 2018 and 2022, some 1.2 million young people dropped out of education and the number of students enrolled in basic education decreased by 15.7 per cent. They also allege that 85 per cent of educational centres do not have access to the internet, 69 per cent have limited electrical services and 45 per cent do not have water. ***The Committee refers to its comments on the application of the Human Resources Development Convention, 1975 (No. 142), and requests the Government to provide detailed and updated information on the scope and impact, including statistical information disaggregated by age and sex, of the measures implemented in the field of education and vocational training and their relation to potential employment opportunities. The Committee also requests the Government to provide detailed information on the measures taken to ensure effective coordination between education and vocational training policies and programmes and employment policies and programmes.***

Youth employment. The Committee notes the Government's indication that, in the first half of 2021, the unemployment rate among young people aged 15 to 24 years was 17.2 per cent (20.6 per cent among women and 15.3 per cent among men), which is almost double the national rate (8.9 per cent). The Government adds that young people represent 25.8 per cent of the total unemployed population, 12.6 per cent of the employed population and 33.1 per cent of the inactive population. The Committee also notes that the Government reports the continued implementation of the Major Youth Employment Mission with the objective of providing opportunities for young people to enter the labour market. The Government indicates that, in the framework of this Major Mission, 2,181,468 young people received assistance, more than 500,000 young people have been placed in different workplaces, and support has been provided to more than 38,000 young people through the *Emprender Juntos* platform. The Committee notes, however, that CTASI, CTV and FAPUV maintain that the work offered to young people through the Major Mission is precarious, low-paying, unstable and subject to political affiliation. FEDECAMARAS points out that it is necessary to review the labour regime and benefits granted to young people in order to stimulate their employment and stem the flow of young people to other countries. In this regard, CTASI, CTV and FAPUV note that, according to ENCOVI data from 2021, some 86 per cent of migrants are young people of working age who migrate in search of employment. Finally, the Committee notes that the Government has still not responded to its request, first made in 2016, to provide an evaluation, prepared with the participation of the social partners, of the active employment policy measures implemented to reduce youth unemployment and promote their sustainable integration into the labour market. ***The Committee therefore expresses its firm hope that the Government will present in its next report an evaluation, undertaken with the participation of the social partners, of the impact of the active employment policy measures implemented to reduce youth unemployment and promote their sustainable integration into the labour market, particularly for the most underprivileged categories of young persons. The Committee also requests the Government to continue providing updated detailed statistical data, disaggregated by age and sex, on youth employment trends.***

Development of small and medium-sized enterprises (SMEs). The Committee notes the Government's indication that, in accordance with Article 308 of the Constitution of the Bolivarian Republic of

Venezuela, the State is responsible for protecting and promoting, among other entities, small and medium-sized industries, cooperatives, micro-enterprises and any other form of community association. The Government indicates that the body responsible for the protection and promotion of SMEs is the Ministry of People's Power for National Commerce. The Committee also notes that the Government refers to the adoption, in the context of the COVID-19 pandemic, of the plan for assisting SMEs, which includes the adoption of measures to simplify the procedures for the creation of companies, establish a maximum time for the formalization of SMEs and provide them with advice. In addition, certain tax exemptions were introduced for these enterprises (such as exemption from the payment of taxes in relation to the registration of trademarks, patents and copyrights) and time frames were established for the payment of certain taxes. The Government indicates that, under the plan for assisting SMEs, 19,173 enterprises were formalized, of which 15,493 were involved in the sale of goods and 3,680 in production. The Government reports that a total of 27,818 SMEs are authorized to operate in the country. Finally, the Government refers to the implementation of programmes aimed at promoting SMEs in the footwear industry (*Plan Z*) and in the manufacture of school supplies and uniforms (*Plan Escolar*). **The Committee requests the Government to provide detailed and updated information on the impact on job creations of the measures adopted to promote the establishment and productivity of small and medium-sized enterprises.**

Article 3. Participation of the social partners. The Committee notes that the Government refers to meetings held with various sectors of the country, such as the productive, social and labour and political sectors, in which topics related to the world of work have been addressed. In this regard, the Government indicates that, on 5 and 7 April 2022, it held meetings with members of various civil society organizations, in which the measures to be adopted to implement the agenda of citizen demands formulated through social dialogue were discussed. The Government also reports that the inaugural session of the Social Dialogue Forum was held virtually on 7 March 2022 and an in-person session was held from 25 to 28 April 2022. The Government indicates that, within the framework of the Social Dialogue Forum, it met with workers' and employers' organizations, and that it received technical assistance from the ILO. The Government reports that, following the Forum, it has continued to hold meetings with the social partners covering various social and labour topics. The Government reports that, on 4 July 2022, it met with several chambers of industry including the Federation of Craft, Micro, Small and Medium-Sized Business Associations of Venezuela (FEDEINDUSTRIA) and the Venezuelan Confederation of Industrialists (CONINDUSTRIA), with a view to exchanging ideas in relation to the strengthening of national production and the generation of decent jobs. In addition, on 20 July 2022, a meeting was held with, among other actors, representatives of the trade union and business sector, during which the Basic Act on Special Economic Zones (ZEEs) was signed and the first five ZEEs were established. The Commission notes, however, that CTASI, CTV and FAPUV emphasize that the Government only refers in a general manner to the holding of such meetings and does not provide information on their content or outcomes. They stress that, for the dialogue to be effective, the State must include independent social organizations in the consultations. The Committee also notes that FEDECAMARAS highlights the need to hold tripartite consultations with the aim of designing an employment policy coordinated among all social actors to promote and guarantee full, productive and freely chosen employment, in accordance with the requirements of the Convention. **The Committee therefore urges the Government to take immediate steps to ensure effective consultations with and participation of the social partners in respect of employment policies, as required by this Article of the Convention. In addition, the Committee refers to its comments on the application of the Tripartite Consultations (International Labour Standards) Convention, 1976 (No. 144). It further requests the Government to provide information that includes specific examples of how account has been taken of the views of employers' and workers' organizations in the formulation and implementation of employment policies and programmes and the nature, scope and outcomes of those consultations.**

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 2** (Colombia, Egypt, Estonia); **Convention No. 88** (Canada, China: Macau Special Administrative Region, Colombia, Costa Rica, Cuba, Cyprus, Czechia, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Egypt, France, France: French Polynesia, Lebanon, Netherlands: Sint Maarten, Nicaragua); **Convention No. 96** (Costa Rica, Côte d'Ivoire, Egypt, Mexico); **Convention No. 122** (Albania, Algeria, Antigua and Barbuda, Austria, Azerbaijan, Barbados, Belarus, Belgium, Bulgaria, Burkina Faso, Cambodia, Cameroon, Canada, Central African Republic, Chad, Chile, China: Hong Kong Special Administrative Region, China: Macau Special Administrative Region, Costa Rica, Cuba, Czechia, Denmark, Denmark: Greenland, Ecuador, Fiji, Finland, France, France: French Polynesia, France: New Caledonia, Hungary, Iraq, Kazakhstan, Kyrgyzstan, Lebanon, Netherlands: Aruba, Netherlands: Curaçao, Netherlands: Sint Maarten, Niger, Papua New Guinea, Romania, Saint Vincent and the Grenadines, Slovenia, Sri Lanka, Tajikistan, Togo, United Kingdom of Great Britain and Northern Ireland: Guernsey, Yemen); **Convention No. 159** (Chile, China, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechia, Dominican Republic, Egypt, Fiji, France, Kyrgyzstan, Lebanon, San Marino, Tajikistan, Thailand, Uganda, Ukraine, Yemen); **Convention No. 181** (Czechia, Finland, France, Niger, Rwanda, Zambia).

Vocational guidance and training

Bolivarian Republic of Venezuela

Paid Educational Leave Convention, 1974 (No. 140) (ratification: 1983)

Previous comment

The Committee notes the observations of the Bolivarian Socialist Confederation of Men and Women Workers in Urban and Rural Areas and Fishing of Venezuela (CBST-CCP), received on 1 September 2022. **The Committee requests the Government to provide its comments in this respect.**

Articles 2 to 6 of the Convention. Development and application of the policy to promote the granting of paid educational leave. Participation of the social partners. The Committee notes that the Government refers to articles 298 and 299 of the Basic Act concerning labour and men and women workers (LOTTT), which ascribes responsibility to the State for generating the opportunities for social, technical, scientific and humanistic training of workers, and for encouraging the development of their productive capacities to ensure their integration into the social process of work. In this connection, the Government reiterates that, as provided under section 316 of the LOTTT, “men and women employers may grant leave to men and women workers who are engaged in studies”. Equally, the Government reiterates that employers are obliged to hire apprentices where required to do so by the technical training programme regulations (section 304 of the LOTTT) and may be called on to provide the necessary space and personnel for the development of training plans for their workers, in addition to the programmes undertaken by the National Executive (section 311 of the LOTTT). The Committee also notes that the Government once again indicates that paid educational leave is guaranteed when collective agreements are promoted, which sometimes include the right to such leave. The Government also repeats that the worker and employer decide on how the educational leave will be taken, in such a way that it has the least possible impact on working time. The Government adds that, for this purpose, it could be agreed to change the worker’s hours and establish the manner in which the worker must make up the hours to achieve the work goals. In this regard, the Committee stresses that the obligation to make up hours of work is not compatible with the Convention and recalls once more “the essential requirement that educational or training activities should take place during working hours. The time devoted to these activities must be included in working hours if there is to be genuine educational leave ...” (1991 General Survey on human resources development, paragraph 349). With regard to the implementation of policies to promote the granting of paid educational leave, the Government indicates in a general manner that measures have been adopted with a view to encouraging continuous and lifelong training for workers, through training centres and the implementation of trade union training programmes by the workers national federations. In this connection, the Government refers to the signing of agreements between higher education centres and non-governmental organizations working in the field of workers’ rights and in international trade unionism with a view to promoting trade union organizations. The Committee nevertheless observes that once again the Government does not indicate whether these activities are carried out within the framework of paid educational leave. The Committee also notes that the Government reports that between 2017 and 2022, a total of 28 collective agreements were signed in the public and private sectors, within the framework of which 167,256 women and 90,039 men have benefited contractually from paid educational leave. However, once again the Government provides no information on the conditions that must be met by the workers to be eligible for paid educational leave, nor on the duration of the leave, and the amounts of financial benefits paid. Finally, the Committee notes that the CBST-CCP indicates in its observations that, through its principal federations, it has succeeded in promoting the training and education of workers, including educational leave granted to workers by employers. As an example, the CBST-CCP refers to two collective agreements in the educational and

petrol sectors that include clauses related to paid educational leave and the promotion of training for workers. ***The Committee urges the Government to provide detailed and updated information on the formulation and application, in collaboration with the social partners, of policies to promote the granting of paid educational leave for vocational training at whatever level, and also for general, social, civic and trade union education, in conformity with Article 2 of the Convention, and provide copies of the pertinent texts. Moreover, the Committee urges the Government to provide detailed and updated information on the manner in which paid educational leave is granted, and particularly: (a) the conditions that workers must fulfil to benefit from such leave; and (b) the duration of the leave; and (c) the level of the financial benefits paid. The Committee also requests the Government to provide updated statistics, disaggregated by sex, showing the number of workers granted paid educational leave.***

Human Resources Development Convention, 1975 (No. 142) (ratification: 1984)

Previous comment

Articles 1–5 of the Convention. Implementation of policies and programmes of vocational guidance and training. Cooperation with the social partners. The Committee notes that the Government reports that the National System for the Training and Self-Training of the Working Class was launched on 24 February 2021, with the objective of creating spaces for the academic training of workers. With a view to defining its course of action, round tables were set up with educational missions and universities and with the involvement of, among other actors, representatives of workers' organizations and the Meeting Centres for Education and Work (CEET). Technical working groups were also set up in each federal entity to identify the professional and academic training needs of the workers in the different workplaces involved. The Government indicates that the main purpose of these round tables is to develop and implement in practice the objectives related to training established in the agenda of the Presidential Council of the People's Government of the Working Class. These objectives include: accrediting and certifying the practical knowledge acquired by workers, systematizing the technical innovation projects carried out by workers, accrediting facilitators in workplaces to contribute to the training of their colleagues, and formulating formal and specific educational plans at the national and local levels in areas such as agriculture, fishing and mining. The Committee also notes that the Government reports that, as of 17 December 2021, in various cities 1,418 persons had graduated from training provided by the educational programmes ("missions") (the Robinson Mission and the Ribas Mission), universities and the National Institute for Socialist Training and Education (INCES). The Government adds that 2,642 workers received an accreditation. It also reports that, as of May 2022, eight innovations had been systematized, and 24 workers had been certified in relation to innovations and/or processes improving productivity in cement, cardboard and food workplaces. The Committee also takes note of the information provided by the Government regarding the number of the persons who took part in the different training programmes implemented by INCES in 2022. Regarding access to training for persons with disabilities, the Government reports that 839 workers with disabilities participated in training and self-training activities between 2021 and 2022. Finally, the Committee notes that the Government refers generally to the implementation through INCES of various collective, comprehensive, continuous and permanent training and self-training programmes for workers.

The Committee notes, however, that the information provided by the Government does not allow an assessment of the impact of the measures adopted in the area of vocational training and guidance on groups of workers in vulnerable situations, such as women, young persons, indigenous or tribal persons and persons in rural areas or remote communities. In this respect, the Committee recalls that *Article 1, paragraph 5* of the Convention provides that the "policies and programmes [of vocational guidance and vocational training] shall encourage and enable all persons, on an equal basis and without any discrimination whatsoever, to develop and use their capabilities for work in their own best interests

and in accordance with their own aspirations, account being taken of the needs of society.” In the same vein, *subparagraphs 5(g) and (h)* of the Human Resources Development Recommendation, 2004 (No. 195) refer to the necessity of adopting measures to promote equal opportunities for women and men in education, training and lifelong learning; and promote access to such education for youth, low-skilled people, people with disabilities, migrants, older workers, indigenous people, ethnic minority groups and the socially excluded, and for workers in small and medium-sized enterprises, in the informal economy, in the rural sector and in self-employment. Finally, the Committee notes that the Government also fails to indicate how it is ensured that workers are free to choose the vocational guidance and training programmes they attend. ***The Committee therefore urges the Government to provide detailed and updated information on the nature and impact of the measures taken to guarantee access to vocational training and guidance for workers, particularly groups of workers in vulnerable situations, such as women, young people, older persons, persons with disabilities, indigenous or tribal peoples and persons in rural areas or remote communities. In addition, the Committee urges the Government to indicate how it is guaranteed that workers have the freedom to choose the vocational guidance and training programmes in which they participate, in conformity with Article 1(5) of the Convention.***

Article 5. Cooperation with the workers’ and employers’ organizations. The Committee recalls that for more than ten years it has been requesting the Government to provide information on the manner in which cooperation is ensured with the social partners and representatives of the private sector in the development and implementation of vocational training and guidance programmes and policies to achieve the objectives of the Convention. The Committee notes, however, that the Government has still not provided any information in this respect. ***The Committee therefore urges the Government to provide specific and detailed information on the manner in which the social partners and representatives of the private sector have been consulted on the development, implementation and follow-up of vocational training and guidance policies and programmes.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 140** (Afghanistan, Belize, Chile, Czechia, Finland, France, Guinea, Guyana, Netherlands: Aruba, San Marino, Ukraine, United Kingdom of Great Britain and Northern Ireland: Jersey); **Convention No. 142** (Afghanistan, Central African Republic, Cuba, Cyprus, Denmark, Ecuador, Fiji, France, France: New Caledonia, Hungary, Kyrgyzstan, Lebanon, Tajikistan, Ukraine).

Employment security

Cameroon

Termination of Employment Convention, 1982 (No. 158) (ratification: 1988)

Previous comment

The Committee notes the observations of the General Union of Workers of Cameroon (UGTC), received on 20 September 2021. **The Committee requests the Government to provide its comments in this respect.**

Article 2 of the Convention. Exclusions. The Committee notes the information provided by the Government in reply to its previous comments.

Articles 4 and 11. Valid reason for termination of employment. Period of notice. The Government indicates that the conditions of employment of public servants are defined in Decree No. 94/199 of 7 October 1994 issuing the General Public Service Regulations, which govern termination of employment on grounds of irreversible physical incapacity incompatible with the post occupied, unsatisfactory performance in terms of results and their evaluation, and termination based on special regulations providing for the reorganization of services and the elimination of posts, without the possibility of staff redeployment (Decree No. 94/199, section 119(a) and (b)). Moreover, section 121 governs the dismissal procedure further to misconduct by a public servant. However, the Committee notes that Decree No. 94/199 does not contain any provisions relating to the public employer's obligation to notify the official in writing of the reason for termination, or any provisions specifying invalid grounds for termination (*Articles 4 and 5 of the Convention*). With regard to the private sector, the Committee notes the observations of the UGTC referring to an increase in the number of unfair dismissals in the wood sector, in sport (particularly at the Cameroonian Football Federation (FECAFOOT) and in domestic work. The Government indicates that domestic workers in Cameroon are governed by Decree No. 68/DF/253 of 10 July 1968, as amended by Decree No. 76/162 of 22 April 1976. The Committee notes that Decree No. 76/162 does not contain any provisions relating to the employer's obligation to inform a domestic worker of the grounds for the termination of employment. The Committee nevertheless welcomes the Government's indication that it has launched the process of revising the regulations governing domestic workers and that a draft decree is being finalized with the aim of further incorporate the provisions of the Convention. With respect to workers in the informal economy, the Committee refers the Government to its comments relating to the Employment Policy Convention, 1964 (No. 122). With regard to the period of notice of termination, the Government indicates that the notice period provided for in sections 34 ff of the Labour Code is clearly defined in terms of duration and conditions of eligibility through the provisions of Order No. 10/MTPS/DT of 19 April 1976. However, the Committee notes that the Order of 1976 was repealed by Order No. 15/MTPS/DT of 26 May 1993 determining the conditions and duration of the notice period, taking account of the category and seniority of the worker concerned. On the basis of this Order, employers and labour inspectors implement a reasonable period of notice of termination. The Committee also notes that, in cases of violations, labour inspectors send compliance notices to the employers concerned and, on the basis of section 4 of the above-mentioned Order, the competent court imposes the penalties provided for in section R 370, subparagraph 12 of the Penal Code. **In light of the observations of the General Union of Workers of Cameroon (UGTC), the Committee once again requests the Government to provide detailed, up-to-date information on the manner in which it is ensured that all the workers covered by the Convention receive a reasonable period of notice, including a written notification of the reason for termination of employment, in accordance with Articles 4 and 11 of the Convention. The**

Committee also requests the Government to provide information on the revision of the regulations governing domestic workers and to send a copy of the decree once it has been adopted.

Articles 7 and 8. Procedure prior to or at the time of termination. Appeal procedure. The Government indicates that in practice section 34 of the Labour Code is enforced systematically through labour inspectors during inspections and even in the follow-up to labour disputes giving rise to attempts at conciliation. The Government indicates that nearly 4,500 inspections were carried out in 2020 by labour inspectors in enterprises. It adds that the inspection reports provide sufficient information on cases of termination of employment and the handling thereof. With regard to the termination procedure subject to authorization by the labour inspector, the Government indicates that this exclusively concerns staff delegates, whose function is protected by section 130 of the Labour Code. The Committee notes the Government's indication that the most recurrent findings, further to inspections and re-inspections, have related to non-observance by employers of the labour laws and regulations, particularly non-payment or irregular payment of wages, non-observance of clauses in contracts between parties which duly deal with the right to reclassification, to promotion and other benefits arising from the employment contract, the non-payment of social contributions, and the non-observance of health and safety measures in workplaces. The Committee also notes, with respect to labour disputes, that a total of 9,546 conciliation procedures were conducted by labour inspectors in 2019, of which less than 25 per cent resulted in non-conciliation reports leading to referral to the judicial authorities. **The Committee requests the Government to continue providing information on the number and type of violations recorded by the labour inspection authorities. The Committee also requests the Government to send copies of relevant court decisions giving effect to Articles 7 and 8 of the Convention.**

Article 12(3). Definition of serious misconduct. Severance allowance and other income protection. The Government indicates that, in practice and following the texts in force, establishing misconduct is essentially a task for the judge. The Government adds that it is from this perspective that section 36(2) of the Labour Code stipulates that it shall be the competent court which assesses the seriousness of the misconduct in all cases of termination and it is for the employer to supply proof of the legitimacy of the alleged reason for termination (section 39(3) of the Labour Code). The Committee notes the examples of case law in this field provided by the Government. **The Committee requests the Government to continue providing examples of case law relevant to the application of the Convention, and also information on the role of collective agreements in granting a severance allowance and other income protection to the worker concerned.**

Articles 13 and 14. Consultation of workers' representatives. Terminations of employment for economic, technological, structural or similar reasons. With regard to the consultation of representatives, the Government indicates that recourse to terminations of employment for economic reasons still involves in practice the participation of labour inspectors, who have competence for enforcing the provisions of section 40 of the Labour Code and those of Order No. 21/MTPS/SG/CJ of 26 May 1993 establishing procedures for termination for economic reasons, section 3(1) of which provides in particular that the employer must send the staff delegates a list of the workers that he proposes to dismiss and that the delegates are required to send their replies to the employer within eight days. The Government adds that a tripartite consultation framework, involving the employer and staff delegates backed by the competent labour inspector, is generally put in place to accompany the termination process in question, in accordance with the relevant rules in this field. With regard to termination, the UGTC reiterates its previous observations concerning the dismissal of 14,000 workers, which was announced during the COVID-19 pandemic by the Employers' Association of Cameroon (GICAM), without consultation with the UGTC or the Government. The Government indicates that the labour inspectors handled the requests for termination on economic grounds or for temporary lay-offs on a case-by-case basis in enterprises. Some requests were clearly refused on grounds of violation of the procedure. In this regard, the Committee notes that the GICAM, in its Bulletin No. 80 of November 2020, reported on the negative impact of the pandemic on Cameroonian enterprises and on employment, particularly with regard to

the temporary laying off of some 54,000 workers and the dismissal of some 14,000 persons. It also notes the observations of the UGTC indicating that the Government has not yet responded to the issues arising from these terminations, particularly as regards support measures for the dismissed workers. ***The Committee requests the Government to send detailed information on the consultations held with staff delegates and labour inspectors, particularly in the context of temporary lay-offs and terminations of workers' employment on economic grounds during the COVID-19 pandemic. The Committee also requests the Government to include in its next report statistics on the activities of the labour inspectorate and the courts with regard to terminations of employment, particularly the number of requests for termination examined by the labour inspectorate in relation to collective dismissals. The Committee also requests the Government to provide information on support given to dismissed workers and on the steps taken to mitigate the effects of terminations on economic or similar grounds, such as those envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166).***

Application of the Convention in practice. COVID-19 pandemic. The Committee requests the Government to continue providing detailed, up-to-date information on the manner in which the Convention is applied in practice, and on the consultations held with the social partners concerning issues relating to the application of the Convention. The Committee also requests the Government to send copies of recent court decisions concerning issues relating to the application of the Convention.

Democratic Republic of the Congo

Termination of Employment Convention, 1982 (No. 158) (ratification: 1987)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Observations by the Labour Confederation of Congo (CCT). Abusive dismissals. In its previous comments, the Committee invited the Government to provide its own comments on the observations of the CCT, indicating whether the dismissal of around 40 employees of a private multinational enterprise governed by French law were based on valid reasons (Article 4 of the Convention) and whether the dismissed workers were entitled to severance allowances (Article 12). It also requested the Government to provide information on the measures adopted to mitigate the effects of the dismissals, such as those envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166). In its report, the Government indicates that section 78 of the Labour Code adopted in 2002 prohibits mass dismissals, and that the information held by the Government does not indicate that the dismissed workers did not receive severance allowances, as no complaint was noted. The Committee notes that, with regard to measures adopted to mitigate the effects of the dismissals, the Government indicates that the provisions of section 78 of the Labour Code guarantee priority hiring in the event of a resumption of activity. The Committee also notes that section 78 provides that mass dismissals on economic grounds are prohibited, "except for possible exceptions that will be determined by an order of the Minister responsible for labour and social security" and sets out the applicable procedure. ***Noting that the Government provides information of a general nature concerning the above-mentioned dismissals, the Committee requests the Government to provide information on the procedure followed in the case reported by the CCT, including copies of inspection reports, where possible. It once again requests the Government to provide specific information indicating whether the dismissals were based on valid reasons (Article 4 of the Convention) and whether the dismissed workers were entitled to severance allowances (Article 12). It also once again requests the Government to provide specific information on the measures adopted in this particular case to mitigate the effects of the dismissals, such as those envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166).***

In its previous comments, the Committee also requested the Government to provide a report containing information on the practice of the labour inspectorate and the decision of the courts on matters of principle relating to the application of Articles 4, 5 and 7 of the Convention. It also requested it to indicate the number of appeals against termination, their outcome, the nature of the remedy awarded and the average time taken for an appeal to be decided (Parts IV and V of the report form). The Committee notes

that the Government has provided inspection reports from 2014, 2015, 2016 and 2017 but that these reports do not contain information on the application of the above-mentioned Articles. **The Committee therefore once again requests the Government to provide information on the practice of the labour inspectorate and the decision of the courts on matters of principle relating to the application of Articles 4, 5 and 7 of the Convention. It also reiterates its request to the Government to indicate the number of appeals against termination, their outcome, the nature of the remedy awarded and the average time taken for an appeal to be decided (Parts IV and V of the report form).**

Article 7. Procedure prior to, or at the time of, termination. In its previous comments, the Committee requested the Government to provide copies of collective agreements which provide for the possibility of a specific procedure to be followed prior to, or at the time of, termination, as required by the Convention, and to indicate the manner in which this provision of the Convention is given effect for workers not covered by collective agreements. The Government indicates that: (i) it ensures that collective agreements are in conformity with sections 63, 72, 73 and 75 of the Labour Code; and (ii) in addition to enterprise collective agreements, there is the national inter-occupational labour agreement, of which it provides a copy. The Committee nevertheless notes that the copy of the latter agreement was already provided by the Government in its 2013 report and that, in this regard, it considered that the above-mentioned collective agreement did not appear to envisage the possibility of a specific procedure to be followed prior to, or at the time of, termination. The Government adds that enterprises that have not concluded collective agreements are required to adhere to the sectoral collective agreement and the procedure to be followed prior to, or at the time of, termination is provided by the implementing measures, such as Order No. 12/CAB.MIN/TPS/116/2005 of 26 October 2005, determining the terms of dismissal of workers. The Committee notes with **interest** that Act No. 16/010 of 15 July 2016, amending and supplementing Act No. 015-2002 issuing the Labour Code, with respect to section 62, provides that “when the employer envisages dismissal for grounds related to the worker’s aptitude or conduct, he or she is required, before any decision is taken, to allow the person concerned to defend himself or herself against the allegations made or to provide an explanation for the grounds put forward”. **The Committee requests the Government to provide up-to-date information on the application in practice of the Labour Code with regard to the possibility offered to workers to defend themselves against the allegations against them before any dismissal measures are imposed, as well as the application of the above Order. It also once again requests the Government to provide copies of the collective agreements which provide for the procedure to be followed prior to, or at the time of, termination.**

Article 12. Severance allowance and other income protection. In its previous comments, the Committee noted that national legislation does not provide for severance allowances or other forms of income protection for dismissed workers. The Committee therefore reiterated its request to the Government to indicate the manner in which effect is given to Article 12 of the Convention. The Committee notes the Government’s indication that in order to prevent workers from being adversely affected, tax deductions are limited to 10 per cent during the notice period. However, other categories are not taxed, except for non-statutory family benefits. **Noting, once again, the absence of specific information in the Government’s report in response to the Committee’s request, it urges the Government to provide detailed information indicating the manner in which effect is given to Article 12 of the Convention.**

Articles 13 and 14. Terminations for economic or similar reasons. In its previous report in 2013, the Government indicated that the Ministry of Employment, Labour and Social Welfare signed 15 orders authorizing collective terminations for economic or similar reasons, covering 701 workers in 2012–13. The Committee invited the Government to indicate whether the dismissed workers were entitled to severance allowances (Article 12) and to provide information on the measures taken to mitigate the effects of terminations for economic or similar reasons, as envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166). **Noting that the Government’s report does not contain information in this regard, the Committee once again requests the Government to provide the information requested.**

The Committee expects that the Government will make every effort to take the necessary action in the near future.

France

Termination of Employment Convention, 1982 (No. 158) (ratification: 1989)

Previous comment

The Committee notes the observations of the French Democratic Confederation of Labour (CFDT), received on 6 September 2021, and the Government's response, received on 7 October 2021. It also notes the observations of the French Confederation of Management – General Confederation of Professional and Managerial Employees (CFE-CGC) provided with the Government's report. The Committee notes that the observations concern in particular the application of *Article 10* of the Convention.

Follow-up on the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution)

Article 4 of the Convention. Valid reason for termination based on the operational requirements of the undertaking, establishment or service. The Committee notes the Government's indications that Act No. 2016-1088 of 8 August 2016 on work, the modernization of social dialogue and the safeguarding of career progression clarifies the definition of economic grounds for termination of employment, in order to make the applicable rules clearer, in particular in small and medium-sized enterprises. The Government indicates that the definition of termination of employment on economic grounds includes the grounds contained in the case law of the Court of Cassation, namely the cessation of the enterprise's activity and the restructuring of the enterprise in order to safeguard its competitiveness. In addition, the difficulties that can justify termination of employment on economic grounds are defined taking into account elements from case law, including a drop in orders or sales, operating losses, a significant deterioration in cash flow or any evidence of such difficulties. In its report, approved by the Governing Body in March 2022, the tripartite committee set up to examine the representation alleging non-observance by France of the Convention observed that the Convention and Recommendation do not define the concept of operational requirements of the enterprise and that the supervisory bodies have illustrated the concept on the basis of specific elements (paragraph 54 of the report). The tripartite committee considered that determining whether the concept of operational requirements has been respected within the meaning of *Article 4* of the Convention is a matter for the national courts. ***The Committee requests the Government to provide examples of judicial decisions on the effective application of Article 4 of the Convention, particularly decisions concerning dismissals on the grounds of the operational needs of the enterprise. In particular, it requests the Government to communicate the criteria used by the judges in these decisions.***

Articles 8 and 9. Reasonable period of time. Judicial review of the grounds for dismissal. The Committee notes that, according to section L. 2254-2 of the Labour Code, a "dismissal is based on specific grounds that constitute real and serious justification". It notes that the initial reference to the obligation to state, in the letter of dismissal, the specific grounds on which the dismissal is based has been removed (but not the obligation itself, as section L. 2254-2 (V) refers to section L. 1232-6). In paragraph 58 of its report, the tripartite committee considered that, beyond the explicit reference in section L. 2254-2 of the Labour Code to the real and serious nature of the termination of employment on the grounds of an employee's refusal to have his or her employment contract amended as a result of the conclusion of a collective performance agreement, the judge must be able to continue to conduct a genuine judicial review. The tripartite committee indeed considers that the provisions of section L. 2254-2 merely recall the requirement that any termination of employment must be based on real and serious justification. It is for the judge to determine as part of the judicial proceedings on termination based on section L. 2254-2 whether a valid reason exists within the meaning of *Article 4* of the Convention, that is, whether the reason for the termination is based on "the operational requirements of the undertaking, establishment

or service”, it having been established that, during the judicial examination, the burden of proof must not rest on the employee alone. Referring to Order No. 017-1387 of 22 September 2017 concerning the predictability and security of employment relationships, the Government indicates that the time limits for appeals against the termination of an employment contract have been harmonized at one year. The Committee recalls that all parties concerned should seek to avert or minimize as far as possible termination of employment for reasons of an economic, technological, structural or similar nature, without prejudice to the efficient operation of the undertaking, establishment or service, and to mitigate the adverse effects of any termination of employment for these reasons on the worker or workers concerned (*Paragraph 19(1) of the Termination of Employment Recommendation, 1982 (No. 166)*). ***The Committee requests the Government to provide information on the results of judicial reviews of dismissals based on section L. 2254-2, and on the impact of the change in the time limits for appeals.***

Article 10. Payment of adequate compensation or such other relief as may be deemed appropriate. The Committee notes that, in its observations, the CFDT refers to the scale setting limits for the compensation of employees who have been dismissed without real and serious justification and refers to the incompatibility of the limits set with the principle of adequate compensation, as set out in *Article 10* of the Convention. Indeed, the CFDT indicates that the compensation of the damage as provided for by this scale does not always make it possible to adequately compensate the employee for the unjustified termination of his or her employment, in particular when the damage is very significant and the employee’s length of service in the enterprise is short. In its observations, the CFE-CGC states that it considers this scale to be in breach of *Articles 8 and 10* of the Convention. The Government points out that the scale mechanism provided for in Ordinance No. 2017-1387 and ratified by Act No. 2018-217 was submitted to the Constitutional Council, which declared section L. 1235-3 of the Labour Code establishing the compensation scale to be in conformity with the Constitution. The Government specifies that the scale system is a compulsory framework of compensation that the judge must use when declaring an employee’s dismissal to be without real and serious justification. In no case does the scale system allow the employer to terminate employment without justification, as the amount set by the scale and proposed by the judge is the compensation for the damages suffered by the employee. Currently, when the employee’s dismissal has no real and serious justification, the judge may order the reinstatement of the employee if neither party opposes it. If the employer or the employee refuse the reinstatement, the judge awards compensation. The judge may take into account elements related to the employee’s particular situation (age, health, family situation, etc.) when setting the amount of compensation in compliance with the minimum and maximum limits of the scale. In its report, the tripartite committee considered – aside from cases of termination concerning a fundamental right, to which the principle of full compensation applies, and irrespective of the compensation for separate damage – that the compatibility of a scale, and the related upper limit, with *Article 10* of the Convention depends on whether sufficient protection is ensured for persons whose employment has been unfairly terminated and, in all cases, whether adequate compensation is paid (paragraph 80 of the report). Under these circumstances, the tripartite committee invited the Government to examine at regular intervals, in consultation with the social partners, the compensation procedures provided for in section L. 1235-3, to ensure that in all cases the parameters for compensation provided for in the scale ensure adequate compensation for damage suffered as a result of the unfair termination of employment (paragraph 81 of the report). The Committee notes the Court of Cassation rulings of 11 May 2022 (Appeal No. 21-15.247 (Ruling No. 1), and Appeal No. 21-14.490 (Ruling No. 2)). The Court holds that the provisions of section L. 1235-3 of the Labour Code are compatible with the provisions of *Article 10* of the Convention. It notes that the scale takes into account the gravity of the employer’s misconduct by excluding from its scope of application terminations of employment that are set aside for one of the reasons listed in section L. 1235-3-1 of the Labour Code. The Court noted that the term “adequate” in *Article 10* of the Convention means that compensation for unjustified termination of employment must be sufficiently dissuasive to avoid unjustified termination of employment and must reasonably allow

compensation for the unjustified loss of employment. It affirmed that the provisions of section L. 1235-3 of the Labour Code, which provide for compensation ranging between minimum and maximum amounts, varying according to the amount of the employee's monthly salary and length of service, reasonably allow for compensation for unjustified loss of employment. The Committee also notes that, according to the European Committee of Social Rights (ECSR) (Complaints Nos 160/2018 and 171/2018, decision published on 26 September 2022) the upper limits set by section L.1235-3 of the Labour Code are not sufficiently high to provide adequate reparation for the damage suffered by the victim and be dissuasive for the employer. The ECSR also notes that the upper limit of the compensation scale does not allow for higher compensation to be awarded on the basis of the personal and individual situation of the worker, as the courts can only order compensation for unjustified dismissal within the lower and upper limits of the scale, unless the application of section L. 1235-3 of the Labour Code is excluded. The ECSR is of the opinion that the courts have a narrow margin of manoeuvre in deciding the case on its merits by considering individual circumstances of unjustified dismissals. For this reason, the real damage suffered by the worker in question linked to the individual characteristics of the case may be neglected and therefore, the worker may not be fully compensated. The Committee notes the December 2021 report of the Committee for the Evaluation of the Orders of 22 September 2017, mentioning that in the sample of appellate court decisions studied by the Committee, the amount of compensation paid is between the upper and lower limits of the scale in 90 per cent of the cases for dismissals after the application of the scale, whereas this was the case for 44 per cent before the reform. ***The Committee requests the Government to provide information on the review, in consultation with the social partners, of the compensation procedures provided for in section L. 1235-3, so as to ensure that the parameters of compensation provided for in the scale allow, in all cases, adequate compensation for the damages suffered as a result of unfair dismissal.***

Application of the Convention in practice. The Committee notes the observations of the CFDT on the legislative developments in the area of legislative developments in relation to the laws on termination of employment on economic grounds, in particular with regard to the need to have statistical data on the application of the Convention in practice. ***The Committee requests the Government to continue to provide any general information on how the Convention is applied in practice, including, for example, available statistics on the activities of the appeal bodies (such as the number of appeals against dismissal measures, the outcome of such appeals, the nature of the reparations granted, the average length of time taken for the appeal to be decided), and the number of dismissals on economic or similar grounds.***

Papua New Guinea

Termination of Employment Convention, 1982 (No. 158) (ratification: 2000)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 1 of the Convention. For a number of years, the Committee has requested information concerning the ongoing revision of the Industrial Relations Bill which, according to the Government's 2013 report, includes provisions on termination of employment with the objective of giving effect to the Convention. In its reply to the Committee's previous comments, the Government indicates that the draft Industrial Relations Bill is still pending with the Department of Labour and Industrial Relations and is undergoing final technical consultations. The Government adds that the Department of Labour and Industrial Relations Technical Working Committee has carried out various consultations with national stakeholders, such as the Department Attorney General's Office, the Office of the Solicitor General, the Constitution Law Reform Commission, the Department of Personnel Management, the Department of

Treasury and the Department of Planning, Trade Commerce and Industry, as well as with external technical partners, including the ILO. ***Referring to its previous comments, the Committee once again expresses the hope that the Government will take the necessary measures to ensure that the new legislation gives full effect to the provisions of the Convention. It also reiterates its request that the Government provide a detailed report to the ILO and a copy of the legislation as soon as it is enacted, so as to enable the Committee to examine its compliance with the Convention.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Bolivarian Republic of Venezuela

Termination of Employment Convention, 1982 (No. 158) (ratification: 1985)

Previous comment

The Committee notes the observations of the Confederation of Workers of Venezuela (CTV), the Federation of University Teachers' Associations of Venezuela (FAPUV) and the Independent Trade Union Alliance Confederation of Workers (CTASI), as well as the observations of the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), communicated together with the Government's report.

Article 8 of the Convention. Remedies against unjustified dismissal. In its previous comments, the Committee requested the Government to specify the manner in which it guarantees the impartiality of labour inspectors when effectively certifying a reinstatement order in cases of dismissal. It also requested the Government to indicate the number of occasions on which appeals had been made to set aside a dismissal, and the number of occasions on which appeals had been upheld. The Committee further requested the Government to indicate, with regard to the 972 workers in toll stations belonging to the Ministry of Transport, whether they had been reinstated. The Committee notes that the Government refers to sections 508 and 509 of the Basic Labour Act (LOTTT), setting out the competences of labour inspectors, who are called upon to ensure the correct application of the provisions of labour law. The Government indicates that, as a consequence, in their decisions they must uphold the rule of law and social justice in an impartial and balanced manner. Where appropriate, employers can be penalized in accordance with the provisions of the law. With reference to appeals to set aside dismissals, the Government indicates that the parties are entitled to pursue the necessary remedies through both administrative and judicial channels. The Government reiterates that, in accordance with section 425(9) of the LOTTT, in order to be able to give effect to an administrative appeal, labour inspectors are first required to certify the effective implementation of the reinstatement order and the restoration of the legal situation. The Government reports that between 2017 and the first half of 2022, labour inspectors certified 8,518 orders for reinstatement and the restoration of rights. In this regard, the Committee notes the renewed indication by FEDECAMARAS that the requirement to abide by reinstatement orders as a precondition for appealing against administrative instructions in practice raises an obstacle to access to justice for employers and has severe consequences on enterprise productivity. FEDECAMARAS emphasizes the need to adopt legal and practical measures with a view to ensuring that the procedure of termination of employment is more flexible and less traumatic, in order to improve efficiency and productivity.

The Committee notes the Government's indication that, due to the separation of powers, it does not have information on the number of occasions on which appeals were made to the national courts and on which they were upheld. The Government indicates that it is therefore only in a position to report the notifications that were effectively made to the labour inspection services to initiate the appellate procedure. In this regard, the Government indicates that, between 2017 and 2022, a total of 517 appeals were made against the commencement of the procedure. The Government adds that appeals for orders

to be set aside can themselves be appealed to the courts. Nevertheless, the rate of final decisions in which reinstatement orders are set aside is very low, as the majority of appeals against reinstatement orders are not upheld (between 2017 and 2020, only 73 appeals against reinstatement orders were upheld).

The Committee further notes that the CTV, FAPUV and CTASI in their observations indicate that the State does not abide by reinstatement orders. The workers' organizations report that decisions are awaited from the judicial system and the national executive authorities in relation to the dismissal, in violation of their trade union rights, of five union leaders. The CTV, FAPUV and CTASI add that, on 15 January 2021, a procedure was initiated for the mass dismissal of more than 1,000 officials and workers of the National Assembly (representing over one third of the total workforce), without fulfilling the prior steps required by law, such as the presentation of claims to assess the reasons for dismissal, the opening of disciplinary procedures and the establishment of working groups with the unions. The workers' organizations indicate that, in relation to the dismissals, there were not only infringements of the right to due process and the right of workers to defend themselves, but also of maternal and trade union protections, as the dismissed workers included pregnant women and trade union leaders. They add that the National Union of Men and Women Public Officials in the Legislative Career Stream and Men and Women Workers of the National Assembly (SINFUCAN) has denounced these acts and taken action in various national bodies for the reinstatement of the workers. They add that, in communication No. 191/2022 of 24 February 2022, the former Minister of Labour announced that the implementation of the reinstatement procedures for workers in the Legislative Assembly was set for 7 March 2022. However, the CTV, FAPUV and CTASI complain that the orders have still not been implemented and call for their application. Finally, with reference to the dismissal of 972 workers in toll stations belonging to the Ministry of Transport, the Committee notes the Government's indication that the reinstatement procedures have been set in motion. Moreover, in view of the high number of persons affected, technical working groups have been set up throughout the territory with a view to preventing industrial disputes. The Government adds that 862 workers have been reassigned in the various units of the Ministry of Transport and local authorities, while 110 workers have decided to accept cash payments in accordance with the law rather than reinstatement. **The Committee requests the Government to provide detailed and updated information on the number of appeals against dismissal and the number of occasions on which appeals have been upheld. The Committee also requests the Government to provide detailed and updated information on the grounds on which a reinstatement order can be set aside, including extracts from relevant court decisions. With reference to the workers dismissed from the National Assembly, the Committee requests the Government to indicate whether they have been reinstated and the dates of their reinstatement.**

Application of the Convention in practice. The Committee notes the Government's indication that, between 2017 and 2022, a total of 125,438 appeals for reinstatement were submitted, of which 63,825 resulted in reinstatement orders. With regard to the number of occasions on which the courts upheld a reinstatement order, the Government indicates that, in accordance with the law (sections 8 and 79 of the Basic Act on Administrative Procedures and sections 512, 537 and 538 of the LOTTT), and with national case law (such as ruling No. 0845 of 11 July 2013 of the Administrative Policy Chamber of the Supreme Court of Justice), the judicial authorities are not competent to monitor the implementation of administrative instructions issued by the labour inspection services ordering reinstatement and the payment of wage arrears. The Government adds that there is a special procedure through which labour inspectors can enforce the execution of their administrative instructions, including those ordering reinstatement and the payment of wage arrears. The Committee notes the Government's indication that, between 2017 and 2022, labour courts at the national level handed down 318 decisions confirming reinstatement orders issued by the labour inspection services. Nevertheless, the Committee notes that the Government has not provided information on the number of procedures in the labour inspection services following complaints of dismissal, transfer or demotion and procedures to authorize dismissals.

The Committee also notes the Government's indication concerning the finalization of the plan for the restoration of rights and liabilities in cases of insolvency, and the updated plan for the prevention of procedural delays and situations of non-compliance, on which progress had been subject to difficulties encountered by the public administration. The Government adds that, as a result of the implementation of these plans, many administrative delays have been overcome. It adds that measures have been adopted to avoid situations in which procedures are not followed through and in order to be able to ensure greater efficiency and a more appropriate response to procedures that have been commenced, such as the transformation of sub-inspectorates into Labour Inspectorates, thereby extending their competence with a view to ensuring a greater response capacity. Moreover, a policy has also been implemented with a view to improving accessibility to administrative justice in remote areas through mobile inspection services. However, the Committee notes the indication by FEDECAMARAS that procedures for the confirmation of the reasons for dismissal and for reinstatement generally last months, and even years, as a result of delays in the process due to the lack of sufficient personnel to deal with the high volume of applications. ***The Committee requests the Government to continue providing detailed and updated information on the number of dismissals and the number of reinstatement orders issued by the labour inspection services. The Committee also requests the Government to provide detailed and updated information on the impact of the measures adopted in ensuring greater efficiency and increasing the capacity to deal with procedures that have been commenced.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 158** (*Central African Republic, Cyprus, Ethiopia, Lesotho, Luxembourg, Saint Lucia, Uganda, Ukraine, Yemen*).

Wages

Burundi

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1963)

Previous comment

The Committee notes the observations of the Trade Union Confederation of Burundi (COSYBU), received on 29 August 2022.

Article 3 of the Convention. Operation of the minimum wage-fixing machinery. Further to its previous comment, the Committee notes that the Government indicates in its report that the guaranteed inter-occupational minimum wage (SMIG) is currently under revision, and that an independent consultant has already been engaged to conduct an analysis of the evolution of the socio-economic situation. That analysis will be taken as a reference to fix the criteria for updating the SMIG and will provide a document containing the criteria for fixing the new SMIG. It further notes that the COSYBU indicates in its observations that the tripartite committee has just adopted the final report of the study conducted into updating the SMIG and that the next stages are its examination by the National Labour Council and by the Government. The COSYBU also indicates that the minimum wages applicable by category as fixed by collective agreements in the various branches of activity or in enterprises have not yet been fixed. The Committee observes with **regret** that, despite the steps taken to reactivate the minimum wage review process, the SMIG has not been readjusted since 1988 and minimum wages applicable by category through collective agreements in branches of activity or in enterprises have not yet been fixed. **Therefore, the Committee again urges the Government to take the necessary steps to readjust the SMIG without delay, in consultation with the workers' and employers' organizations concerned so as to ensure that new minimum rates of wages are fixed for workers employed in certain trades in which no arrangements exist for the effective regulation of wages by collective agreements or otherwise and wages are exceptionally low. It also requests the Government to provide information on the minimum wages applicable by category in the various branches of activity or in enterprises, including home working trades, once these have been fixed by collective agreement.**

Cameroon

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1973)

Previous comment

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on wages, the Committee considers it appropriate to examine Conventions Nos 95 (protection of wages) and 131 (minimum wages) together.

The Committee notes the observations of the Cameroon Workers' Trade Union Confederation (CSTC), received on 31 August 2022, and the Government's reply to the observations of the CSTC on Convention No. 131, received on 15 November 2022.

A. Minimum wages

Article 5 of Convention No. 131. Measures to ensure effective application of the provisions of minimum wages. Further to its previous comments, the Committee notes the information provided by the Government in its report concerning the objectives set regarding labour inspections in enterprises. The

Committee notes, however, that, according to the observations of the CSTC, difficulties persist in the application of the guaranteed minimum inter-occupational wage (SMIG) in practice, and that the labour inspectorate has difficulties in ensuring that employers of domestic workers in private homes apply the SMIG. **The Committee requests the Government to continue its efforts to strengthen monitoring of the application of the provisions of minimum wages, including in the informal economy, and to provide information on the results of the measures taken.**

B. Protection of wages

Article 8 of Convention No. 95. Deductions from wages. Further to its previous comments, the Committee notes that, according to the Government's report, section 75 of the Labour Code, under the terms of which deductions from wages, known as consignations, can be envisaged in the individual labour contract, has still not been revised. The Committee recalls that *Article 8(1)* of the Convention provides that deductions shall be permitted only under conditions and to the extent prescribed, not by individual agreement, but by national laws, or fixed by collective agreement or arbitration award. **Recalling that this Article makes exclusive reference to national legislation, collective agreements and arbitration awards, and that provisions in national legislation permitting deductions by virtue of individual agreements or consent are not compatible with this Article (2003 General Survey on protection of wages, paragraph 217), the Committee requests the Government to take the necessary measures to bring section 75 of the Labour Code into conformity with Article 8(1). The Committee also requests the Government to indicate the way in which section 75(1) of the Labour Code is applied in practice, including by providing examples of consignations provided for in the individual labour contracts.**

Article 12(1). Regular payment of wages. Further to its previous comments, the Committee notes the Government's indication that, in the event of delays in the payment of wages, redress available to the workers comprises raising the matter with the employer for the payment of wages, or referring the matter to the labour inspectorate. The Committee also notes that, according to the Government, the number of enterprises concerned by wage arrears rose from 152 in 2017 to 289 in 2020, before falling by more than half, following the strengthening of labour inspection measures. The Committee notes, however, that the CSTC, in its observations, indicates that it has detected cases of workers who have accumulated up to 36 months of wage arrears. The CSTC also refers to situations where, after a case has been brought to the labour inspectorate and a conciliation procedure for the payment of a number of months of wages has been concluded, new wage arrears accumulate. **The Committee therefore requests the Government to continue its efforts to remedy the problems detected relating to wage arrears to ensure the regular payment of wages, in accordance with Article 12(1) of the Convention. The Committee also requests the Government to provide detailed information on the measures taken, including any court decision or arbitration award issued in connection with this Article of the Convention, and the progress achieved in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

Central African Republic

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 2006)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

In order to provide a comprehensive review of the issues relating to the application of the ratified Conventions on wages, the Committee considers it appropriate to consider Conventions Nos 131 (minimum wages) and 95 (protection of wages) in a single comment.

Minimum wages

Article 4 of Convention No. 131. Periodical adjustment of minimum wage rates. In its previous comments, the Committee noted that, according to the information available, the last decree fixing the guaranteed inter-occupational minimum wage (SMIG) and the guaranteed agricultural minimum wage (SMAG) was adopted in 1991. It notes with **concern** the Government's indication in its report that there has been no fixing or adjustment of minimum wages during the period covered by the report and that it does not provide information on the operation of the Standing National Labour Council (CNPT), a tripartite body whose functions include, under section 226 of the Labour Code, issuing an opinion when the SMIG and SMAG are being fixed. **The Committee therefore urges the Government to take the necessary measures to review, without delay, the minimum wage rates and to adjust the SMIG and SMAG levels in the light of this review. The Committee requests the Government to provide information on the measures taken in this regard, including on any opinion issued by the CNPT in this context.**

Protection of wages

Article 12 of Convention No. 95. Regular payment of wages. In its previous comments, the Committee requested the Government to provide information on the settlement of wage arrears in the public sector. It notes that the Government's report does not contain information in this regard. The Committee recalls that the application in practice of *Article 12* comprises three essential elements: (i) efficient control; (ii) appropriate sanctions; and (iii) the means to redress the injury caused (see General Survey of 2003 on the protection of wages, paragraph 368). The Committee notes that the Labour Code contains provisions regulating these three elements, but that the Code excludes public employees from its scope of application. The remuneration of public employees is regulated by Act No. 09.014 of 10 August 2009 issuing the General Conditions of Service of the Central African Public Service, which does not contain provisions implementing the three elements mentioned above. **The Committee therefore once again requests the Government to provide information on the settlement of wage arrears in the public sector. It also requests the Government to take the necessary steps to ensure the regular payment of wages in this sector through the provision of efficient control, the adoption of appropriate sanctions in cases of non-observance, and the existence of means to redress any injuries caused. The Committee requests the Government to provide information on the measures taken in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Comoros

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1978)

Protection of Wages Convention, 1949 (No. 95) (ratification: 1978)

Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99) (ratification: 1978)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on wages, the Committee considers it appropriate to examine Conventions Nos 26 and 99 (minimum wages) and No. 95 (wage protection) together. The Committee notes the observations of the Workers Confederation of Comoros (CTTC), on the implementation of Conventions Nos 26, 95 and 99, received in 2017.

Minimum wages

Article 3 of Convention No. 26 and Article 3 of Convention No. 99. Minimum wage fixing machinery and the methods to be followed in its operation. In its previous comments, the Committee requested the Government to provide information on any decree or order adopted with respect to the minimum wage after obtaining the opinion of the Labour and Employment Advisory Council (CCTE), in accordance with section

106 of the Labour Code. The Committee notes the Government's indication in its report that in 2015, the CCTE examined seven regulatory texts including the decree fixing the inter-occupational guaranteed minimum wage (SMIG) for workers covered by the Labour Code. The Government adds that the tripartite members of the CCTE recommended that an expanded consultation framework should be established as soon as possible in order to examine the subject in greater depth through additional studies, taking into consideration the experience of other countries with regard to wage fixing as well as the country's socioeconomic situation. The Committee notes that according to the CTTC, despite the discussions held by the CCTE in 2015, no text setting minimum wages was adopted. The Committee further notes that sections 90-92 of the Labour Code provide that collective agreements concluded by joint committees, composed of representatives of the most representative employers' organizations and trade unions in the sector, may be extended and then determine the wages that must be applied for each occupational category. ***In this context, the Committee requests the Government to take the necessary measures to give effect to the provisions of section 106 of the Labour Code without delay and to provide information in this respect. It also requests the Government to provide information on the collective agreements in force fixing wage rates for specific categories of workers and their possible extension pursuant to sections 90 and 92 of the Labour Code.***

Article 4 of Convention No. 26 and Article 4 of Convention No. 99. System of supervision and sanctions. The Committee notes that the CTTC indicates that the agricultural sector, like other sectors of the informal economy, is beyond the control of the State with regard to wages. ***The Committee requests the Government to provide its comments in this regard.***

Protection of wages

Articles 8 and 10 of Convention No. 95. Deductions from wages, attachment or assignment of wages. Further to its previous comments, the Committee notes that the Government indicates in its report that it intends to submit a draft order to the CCTE to determine the parts of wages that are liable to progressive deductions, as well as the part that is exempt from any attachment or assignment. The Committee notes that such an order is provided for under sections 114 and 119 of the Labour Code, as amended in 2012. ***The Committee requests the Government to take the necessary measures to adopt the order without delay and to provide information in this respect.***

Article 12(1). Regular payment of wages. Application in practice. Further to its previous comments on the need to resolve the situation of wage arrears, including in the public service, the Committee notes that the Government indicates that efforts have been made to address this problem but challenges remain. The Government affirms its willingness to end the non-payment of wages, in particular in the public sector. The Committee also notes that the CTTC underscores the lack of progress with regard to the settlement of wage arrears, including in the public sector for the period from 1995 to 2009. The Committee recalls that workers shall receive remuneration for the work done and that the fundamental nature of wages stems from their essential role in ensuring workers' livelihood. ***The Committee requests the Government to intensify its efforts to resolve the question of wage arrears definitively, particularly in the public sector, and to provide information in this regard.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Costa Rica

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

Previous comment

The Committee notes the observations of the Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP) communicated with the Government's report.

Article 3(1) of the Convention. Prohibition of the payment of wages in the form of vouchers, coupons or in any other form alleged to represent legal tender. With reference to its previous comments, the Committee notes that the Government reiterates that coffee payment vouchers are not used as a means

of payment, nor replace payment in cash, but rather constitute a monitoring mechanism so that pickers on poorer plantations have tangible evidence of the amount in cash that they should receive from their employer at the end of the week. The Government indicates that this method is also a security guarantee for the producer against the risk of crime involved in keeping legal tender on some plantations. The Committee notes with **regret** that section 165 of the Labour Code, which provides that coffee plantations may pay workers with tokens representing legal tender, has not yet been amended. **While noting the information provided by the Government on the details and reasons for such practices in the coffee sector, the Committee requests the Government to take all necessary measures, including through the labour inspection system and the establishment of adequate penalties for any infringements, to ensure that all workers in the coffee sector receive the whole amount of their wage in legal tender, at the end of the week, in accordance with the requirements of the Convention. The Committee also requests the Government to adopt without delay the necessary measures to amend section 165 of the Labour Code to guarantee the prohibition of the payment of wages in the form of promissory notes, vouchers, coupons, or in any other form alleged to represent legal tender, in accordance with Article 3(1) of the Convention. It also requests the Committee to provide specific information on any legislative changes adopted in this respect, and on the inspections carried out in coffee plantations, the infringements detected, and the penalties applied.**

Article 4(2)(b). Fair and reasonable value attributed to allowances in kind. With regard to its previous comments, the Committee notes the Government's reference to various rulings of the Second Chamber of the Supreme Court of Justice concerning the requirements for allowances in kind, including the determination of the value of the wage in kind based on objective appraisal and wage-fixing parameters (ruling No. 00075-2004 of 11 February 2004) and the remunerative nature of allowances in kind (rulings Nos 00075-2004 of 11 February 2004 and 00611-2004 of 21 July 2004). The Committee also notes that section 166 of the Labour Code has not been amended to ensure that the value attributed to allowances in kind is fair and reasonable. The Committee recalls that *Article 4(2)* of the Convention imposes an obligation as to the result to be achieved and therefore requires the adoption of measures to ensure that any allowances in kind are attributed a fair and reasonable value, for example specific regulations establishing the value of the allowances in kind, or methods of determining or supervising the value attributed to them (2003 [General Survey on protection of wages](#), paragraphs 153 and 160). **In this regard, the Committee requests the Government to adopt the necessary measures to effectively guarantee that the value attributed to allowances in kind is fair and reasonable, in accordance with Article 4(2) of the Convention. It also requests the Government to provide information on the measures adopted in this respect.**

Democratic Republic of the Congo

Protection of Wages Convention, 1949 (No. 95) (ratification: 1969)

[Previous comment](#)

Article 8 of the Convention. Deductions from wages. Further to its previous comments on the absence of limits on the amounts of authorized deductions from wages, the Committee notes that the Government's report does not contain information on this subject. **The Committee therefore requests the Government to take the necessary measures, on the basis of discussions in the National Labour Council, to establish limits on the permitted amount of deductions from wages, and to provide information in this regard.**

Djibouti

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1978)

Protection of Wages Convention, 1949 (No. 95) (ratification: 1978)

Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)
(ratification: 1978)

The Committee notes the joint observations of the General Union of Djibouti Workers (UGTD) and the Labour Union of Djibouti (UDT) received on 4 May 2021 on Convention No. 95.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on wages, the Committee considers it appropriate to examine Conventions Nos 26 and 99 (minimum wages) and 95 (protection of wages) together.

Minimum wages

Articles 1 to 3 of Convention No. 26 and Articles 1 and 3 of Convention No. 99. Minimum wage fixing machinery. Further to its latest comments on the need to reintroduce the guaranteed interoccupational minimum wage (SMIG), which was withdrawn from the legislation in 1997, the Committee welcomes the information provided by the Government in its report, particularly in respect of the approval by the National Council for Labour, Employment and Social Security of a draft amendment to the Labour Code aimed at reintroducing the minimum wage. The Committee notes with **satisfaction** that Act No. 221/AN/17/8th L of 2017, by amending section 60 of the Labour Code, effectively reintroduced the SMIG as from 1 January 2018.

Protection of wages

Articles 8(1) and 10 of Convention No. 95. Deductions from and attachments of wages. Further to its latest comments on the need to review the conditions in which wage deductions can be made and to limit the amount thereof, the Committee notes the Government's reference in its report to a draft text fixing portions of wages that are subject to progressive deductions and the related rates, which is under examination. The Committee also notes that by amending section 141 of the Labour Code, Act No. 221/AN/17/8th L of 2017 removed the possibility of allowing deductions from wages on the basis of an individual agreement. It also notes with **satisfaction** that the Code of Civil Procedure, adopted in 2018, fixes the portions of wages that may be subject to attachment. Lastly, it notes that a limit on the amount of deductions from wages made otherwise than by attachment is yet to be established. **The Committee therefore requests the Government to indicate the progress made towards the adoption of a decree limiting the amount of these deductions, as provided for in section 142 of the Labour Code.**

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Ecuador

Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1970)

Previous comment

The Committee notes the observations of the Ecuadorian Confederation of Free Trade Unions (CEOSL), the Ecuadorian Federation of Municipal and Provincial Workers (FETMYP), the National Federation of Education Workers (UNE) and the National Ecuadorian Federation of Workers of Provincial Governments (FENOGOPRE), received on 1 September 2022. **The Committee requests the Government to provide its response in this regard.**

Article 3 of the Convention. Elements for the determination of the minimum wage. With reference to its previous comments, the Committee notes the Government's indications in its report that: (1)

Ministerial Decision No. MDT-2020-249 of 30 November 2020 provided that there was no wage adjustment for 2021 and maintained the minimum wage at US\$400 a month; (2) the decision was adopted following several sessions of dialogue with representatives in the National Labour and Wage Council (CNTS) and with the technical support of the competent state institutions, in which analysis covered not only the consumer price index, but also various relevant indicators of the difficult economic situation faced by the country as a result of the COVID-19 pandemic; and (3) various indicators were analysed, including; the consumer price index, the needs of workers, the cost of living, economic factors and productivity levels, which are factors that are in conformity with the provisions of the Convention. The Government adds that when the wage increase for 2021 was analysed in 2020, Ecuador was experiencing an unprecedented economic crisis, despite which tripartite dialogue sessions were held in the CNTS on wage fixing, during which employer and worker representatives made their proposals and indicated their positions on wage adjustments and, even though consensus was not achieved among the representatives in the Council, each of the proposals, indicators and positions expressed by both partners were taken into consideration in the analysis for the purpose of issuing the aforementioned ministerial decision which maintained the 2020 wage level without adjustment in 2021. The Government adds that for 2022, giving effect to the provisions of the national legislation and Convention No. 131, the Ministry of Labour, through Ministerial Decision No. MDT-2021-276 of 21 December 2021, set the unified basic wage for workers in general, including workers in small industry, agriculture, export processing zones, paid domestic workers, craft operators and micro-enterprise collaborators, at US\$425 a month. According to the Government, the unified basic wage was referred to the CNTS for consideration, as a result of which the 2022 adjustment was the subject of tripartite social dialogue, with the participation of state institutions, which reported the trends in the various indicators in relation to: (a) fluctuations in the cost of living; (b) economic growth; and (c) the employment situation in the country.

The Committee notes that in their observations the CEOSL, FETMYP, UNE and FENOGOPRE: (1) point out that, when determining the unified basic wage for 2022, the same legal parameters were not applied as those used for 2021; (2) indicate that Ministerial Decision No. MDT-2021-276, which determined the basic wage for 2022, indicates in its introductory paragraphs that “consensus was not reached in the CNTS between the representatives of workers and employers on the determination of the unified basic wage which will be in force as from 1 January 2022”; and (3) nevertheless, instead of setting the wage increase as a percentage rise equivalent to the projected consumer price index, as set out in the national legislation, the wage was increased by 6.25 per cent at the request of the President of the Republic. In this way, the wage for 2022 was increased by US\$25. The trade union organizations provide explanations of the formula established in the legislation (Ministerial Decision No. MDT-2020-185) for the calculation of the adjustment in the unified basic wage and add that: (i) the formula may or may not be used by the Council for the determination of the wage; (ii) if it is followed, it does not include the cost of the basic family basket, nor the cost of the basic living basket; and (iii) these components are defined by the Ecuadorian Institute of Statistics and Census and, in July 2022, the basic family basket was US\$753.62 a month and the basic living basket was US\$793.33, which are far from the current basic wage of US\$425. In the view of the trade union organizations, the State should establish a compulsory formula for the determination of basic wages which takes into account the value of the basic family and living baskets. The Committee notes all the information provided by the Government and the observations of the trade union organizations, concerning which the Government has not provided its response. The Committee notes the different positions on the elements taken into account to determine the level of minimum wages in 2022, and the proposed formula for determining the minimum wage to be considered for the future. ***The Committee hopes that tripartite dialogue with the representative organizations of workers and employers concerned, in which there is a sincere, technical and constructive exchange, will make it possible to determine a minimum wage which, in so far as possible and appropriate in relation to national practice and conditions, will take into consideration all the***

elements referred to in Article 3(a) and (b). It requests the Government to provide information on the progress made in this regard.

Article 4(2) and (3). Consultations. With reference to its previous comments, the Committee notes the Government's indication that: (1) in accordance with section 117 of the Labour Code, the unified basic wage in the country for private sector workers is established annually, for which purpose the National Labour and Wage Council holds sessions to analyse the employment policy and determine wage adjustments with the participation of representatives of both employers and workers; (2) the CNTS engages in exhaustive consultation with employers' and workers' organizations; (3) each partner in the CNTS has the right to speak and vote on a basis of equality and the resulting decisions and recommendations therefore require the support of the majority of representatives on the Council; (4) in 2021, five meetings were held to examine the labour situation and the annual wage adjustment, in which the representatives participated in an exhaustive discussion of the criteria and the proposals put forward by both partners; (5) the Ministry of Labour participated in these tripartite discussions with a view to reaching consensus between the partners; and (6) mechanisms have also been established in the national legislation to support the representatives of the partners in their decision-making, such as the option for the representatives to have technical advisors and the participation of public institutions.

The Committee notes the indications of the CEOSL, FETMYP, UNE and FENOGOPRE that: (1) the United Workers' Front (which represents 450,000 workers in the public and private sectors, rural areas and cities) and Public Services International in Ecuador, which have been present in Ecuador since 1989, were not able to participate in the tripartite discussions, despite their high level of representation among workers, or in the decisions taken by the CNTS; (2) the denial of the participation of these organizations is due to the lack of clarity in the parameters used by the Executive Secretariat of the CNTS in drawing up the list of the ten most representative organizations at the national level; (3) this lack of transparency enables the Ministry of Labour to nominate pre-Government organizations and the legislation should therefore be revised to clarify and make more transparent the criterion of most representative, in accordance with ILO guidance and, in short, allow other organizations to be part of the Council. Finally, the trade union organizations recall that the ILO provided technical assistance to the State at the end of 2019, when a road map was prepared which envisaged the strengthening of the CNTS and the broadening of its membership, but that it has not been implemented more than two years later. The Committee recalls that, when examining the application of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), by Ecuador, it requested the Government to adopt the measures necessary to ensure that all the country's "most representative organizations" of employers and workers can participate in the CNTS and other consultative bodies of a tripartite nature (2021 [observation](#)). **The Committee trusts that appropriate measures will be taken to enable full consultations to be held with all the representative organizations of workers and employers concerned, in accordance with Article 4(2). It requests the Government to provide information on the progress made in this regard.**

The Committee recalls that the Government may, in relation to all the matters raised, have recourse to ILO technical assistance, if it so wishes.

Guinea-Bissau

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1977)

Previous comment

Article 3 of the Convention. Operation of the minimum wage-fixing machinery. With regard to its previous comment, the Committee notes with **regret** that the Government's report does not contain any new information in this respect and that a new updated minimum wage for the private sector has still not been fixed. **Recalling that the minimum wage in the private sector has not been readjusted**

since 1988, the Committee once again requests the Government to take the necessary measures to fix an updated minimum wage for the private sector as soon as possible, on the basis of the proposals of the multidisciplinary commission established by the Prime Minister's Ordinance of 9 June 2021, after consultation with the workers' and employers' representative organizations, in application of the legislation in force. The Committee also requests the Government to provide information in this regard, in particular on the commission's composition, functioning, meetings and results.

Kyrgyzstan

Protection of Wages Convention, 1949 (No. 95) (ratification: 1992)

Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 2007)

Previous comment

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on wages, the Committee considers it appropriate to examine Conventions No. 131 (minimum wage) and No. 95 (protection of wages) together.

Minimum wage

Article 2 of Convention No. 131. Sanctions. Further to its previous comments, the Committee notes that the Government's report does not contain information on the measures taken to give effect to this Article of the Convention. It also notes that in its 2021 report on Convention No. 81, the Government indicates that the new Code of Offences adopted on 28 October 2021 by Act No. 128, which provides for sanctions for violations of labour legislation (sections 87 to 95), does not contain sanctions for failure to apply the minimum wage. ***The Committee once again requests the Government to take the necessary measures to ensure that failure to apply the minimum wage makes the person or persons concerned liable to appropriate penal or other sanctions, in accordance with Article 2 of the Convention, and to provide information in this regard.***

Article 3. Elements to be considered in determining the minimum wage level. The Committee notes that in reply to its previous request, the Government reiterates that the minimum wage is set at 30 per cent of the minimum subsistence level, based on the principle of a progressive raise to the minimum subsistence level for a person of working age, and does not provide any information on the criteria used to determine this ratio. ***In this context, the Committee expects that at the next adjustment of the minimum wage, so far as possible and appropriate in relation to national practice and conditions, account will be taken of both the needs of workers and their families, and of economic factors, as provided for in Article 3 of the Convention. The Committee requests the Government to provide information on any progress made in this regard.***

Article 4. Consultation with the social partners. The Committee notes that in response to its previous comments, the Government indicates that the National Tripartite Commission has not been able to meet for a considerable time, albeit it will consider the issue of the minimum wage raise at its next meeting. ***In light of this information, the Committee requests the Government to take all necessary measures to ensure that full consultation with the employers' and workers' representatives is held in connection with the fixing and adjustment of the minimum wage level, and to provide information in this regard. The Committee also requests the Government to provide information on the composition, and functioning of the National Tripartite Commission, and its work in the context of the next examination of the minimum wage.***

Protection of wages

Article 12 of Convention No. 95. Regular payment of wages. Further to its previous comments on the persisting situation of wage arrears in the country, the Committee notes that the Government indicates in its report that this issue will be considered at a meeting of the National Tripartite Commission. ***The Committee requests the Government to intensify its efforts to address and remedy the issue of wage arrears in consultation with the social partners, including in the framework of the National Tripartite Commission, and to provide specific information on the measures adopted in this respect, including strict supervision, severe sanctions, and appropriate compensation to workers for the losses incurred.***

Libya

Protection of Wages Convention, 1949 (No. 95) (ratification: 1962)

Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1971)

Previous comment

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on wages, the Committee considers it appropriate to examine Conventions Nos 131 (minimum wage) and 95 (protection of wages) together.

Minimum wage

Article 4 of Convention No. 131. Minimum wage-fixing machinery. The Committee notes that in reply to its previous comment, the Government indicates in its report that the Consultative Council for Wages to be appointed under section 19 of the Labour Relation Act (No. 12 of 2010) has not yet been established but that a committee on wages has been established to prepare a draft law on wages. ***Recalling that minimum wages were last adjusted in the country in 2011, the Committee urges the Government to take all necessary measures to ensure that full consultation with the employers' and workers' representatives is held in connection with the fixing and adjustment of the minimum wage level, and to provide information in this regard. The Committee also requests the Government to provide information on: (i) the composition, functioning and work of the committee on wages; and (ii) the progress made in the adoption of any draft law on wages.***

Protection of wages

Article 12 of Convention No. 95. Regular payment of wages and final settlement of wages due. Further to its previous comments, the Committee notes the Government's indication in its report that a wages release committee has been established within the Ministry of Civil Service Affairs to address the challenges that prevent the payment of wages by ailing firms and foreign companies that have withdrawn from the country. Moreover, the Committee notes that the Government does not communicate information on the implementation of Decision No. 20/2007, concerning the organization, import and employment of foreign labour, and Decision No. 56/2006, concerning the establishment of a multi-stakeholder committee to examine wage claims of migrant workers who had been expelled from the country as illegal immigrants. ***The Committee requests the Government to take the necessary measures to ensure that any situation of wage arrears or other difficulties experienced in the payment of wages to workers, including migrant and public sector workers, are effectively addressed, and to provide information in this regard. It also requests the Government to provide information on the mandate, composition and functioning of the wages release committee and on the implementation of Decisions Nos 20/2007 and 56/2006.***

The Committee is raising other matters in a request addressed directly to the Government.

Madagascar

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1960)

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

Previous comment

In order to provide an overview of matters relating to the application of the ratified Conventions on wages, the Committee considers it appropriate to examine the application of Conventions Nos 26 (minimum wages) and 95 (protection of wages) in a single comment.

The Committee notes the observations of the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE) and the General Confederation of Workers' Unions of Madagascar (FISEMA), received on 1 September 2022.

Minimum wages

Article 3 of Convention No. 26. Minimum wage-fixing machinery and consultation of the social partners. Further to its previous comments, the Committee notes the information provided by the Government in its report on the adoption of Decree No. 2022-626 of 4 May 2022 setting the minimum starting wage in the private sector, for which the implementing order is still being prepared. The Government adds that the new minimum starting wage was set taking into account the protocol containing the outcome of wage bargaining, submitted to the National Labour Council (CNT) for its views on 5 April 2022, and that it includes a supplement covered by the State. In this regard, the Committee notes the observations of the FISEMA and the FISEMARE, which indicate that: (i) the minimum wage-fixing machinery no longer takes into account the real situation and the minimum subsistence level for workers; and (ii) there is a significant period of time between the declaration of the new minimum starting wage and the publication of the corresponding order, which accentuates the difficulties faced by workers in meeting their living expenses, particularly in light of price rises. The Committee also notes the Government's indication that, within the context of the operationalization of the CNT, standing committees have been established to ensure the sound functioning of the CNT, including the purchasing power and wages committee. In this connection, it notes the observations of the FISEMA concerning the dysfunctionality of the CNT and that the purchasing power and wages committee has been created but is not yet operational. It also notes the emphasis by the FISEMARE that, despite the existence of regular dialogue between employers and workers on wage increases, in the last resort, the rates of minimum wages are set by employers. **The Committee requests the Government to intensify its efforts to make the CNT operational, and to provide information on this subject, including on the establishment of the purchasing power and wages committee, its work and achievements. The Committee also requests the Government to take the necessary measures to adopt, as soon as possible, the implementing order of Decree No. 2022-626 of 4 May 2022, and to provide information on the progress made in this regard.**

Article 4. System of supervision and sanctions. Further to its previous comments, the Committee notes the Government's indication that, since 2019, the labour inspection services, together with the National Social Insurance Fund, have established a task force responsible for monitoring regularly the application of the Decree on the minimum starting wage, and that: (i) in the event of failure to apply the minimum starting wage, the labour administration makes time-bound recommendations with a view to ensuring effective compliance with the Decree on the minimum starting wage; and (ii) if these recommendations are not given effect, labour inspectors indicate the offences in a report referred to the Office of the Prosecutor-General of the Republic. **The Committee requests the Government to continue providing information on the activities of the task force, including statistics on cases of failure to apply the minimum starting wage, and the measures adopted to resolve the issue.**

Protection of wages

Article 8 of Convention No. 95. Deductions from wages. The Committee notes that, in reply to its previous comment, the Government indicates in its report that: (i) no deduction from wages may be made without the consent of the worker; and (ii) labour inspectors organize information sessions and training for public institutions and the social partners with a view to preventing risks of abuse in this field. However, the Committee notes that the Government does not indicate the manner in which the deductions authorized in sections 69 and 71 of the Labour Code are limited. The Committee recalls that, in accordance with *Article 8(1)* of the Convention, deductions from wages shall be permitted only under conditions and to the extent prescribed by national laws or regulations, or fixed by collective agreement or arbitration award. ***The Committee therefore requests the Government to indicate the measures adopted or envisaged that are necessary to establish precise and overall limits on the deductions from wages authorized in sections 69 and 71 of the Labour Code. It requests the Government to provide information on this subject.***

Article 12. Regular payment of wages and final settlement of all wages upon the termination of the contract. Further to its previous comment, the Committee notes that the Government has not provided information on delays in the payment of wages and of social security contributions, as well as cases of the non-payment of the remaining amounts due to workers on the termination of the employment relationship. It also notes that the FISEMA denounces the existence of several months of wage arrears, including social security contributions, in the public sector and considers that the labour inspection services have no authority in relation to this situation. ***The Committee once again requests the Government to take all the necessary measures, including action by the labour inspection services and the imposition of effective penalties in the event of non-compliance, to resolve these difficulties and to provide information on this subject.***

Nigeria

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1961)

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

Previous comment

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on wages, the Committee considers it appropriate to examine Conventions Nos 26 (minimum wage) and 95 (protection of wages) together.

The Committee notes the observations of the International Trade Union Confederation (ITUC) on the application of Conventions Nos 26 and 95, received on 1 September 2022.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 110th Session, May–June 2022)

The Committee notes the discussion that took place in the Committee on the Application of Standards (hereinafter Conference Committee) in June 2022 concerning the application of Conventions Nos 26 and 95. The Committee notes that the Conference Committee urged the Government to: (i) consult with the social partners on the issue of extending the minimum wage coverage to the categories of workers currently excluded by the National Minimum Wage Act 2019; (ii) ensure, in consultation with social partners, that men and women receive equal remuneration for work of equal value, including with regard to minimum wage coverage; (iii) establish, in consultation with social partners, an effective system of supervision and sanctions to ensure that the national minimum wage is applied at all levels; (iv) consult with social partners on the issue of the application of the scope of

wage protection to domestic workers; (v) consult with the social partners on the provisions of section 35 of the Labour Act that allow the Minister of Labour to authorize deferred payment of up to 50 per cent of workers' wages until the completion of their contract, in light of *Articles 6 and 12(1)* of Convention No. 95; and (vi) consult with social partners with a view to amending sections 6(1) and 7(1) of the Labour Act to come into line with Convention No. 95. In addition, the Conference Committee requested that the Government avail itself, without delay, of technical assistance from the Office to ensure compliance with the Conventions in law and practice.

The Committee notes the indication in the report of the Government that a tripartite meeting on the Conference Committee conclusions was organized on 10 August 2022, with the Government, the Nigeria Employers' Consultative Association (NECA), the Nigeria Labour Congress (NLC), the Trade Union Congress (TUC) and the ILO in attendance. The Government indicates that decisions were adopted at the meeting to ensure the full application of Conventions Nos 26 and 95, including a road map recommending a second tripartite meeting and the submission of recommendations to the National Labour Advisory Council (NLAC). The Committee notes that many of the decisions adopted refer to the Labour Standards Bill, pending its adoption, and the revision of the National Minimum Wage Act 2019. ***The Committee requests the Government to continue to take all necessary measures to ensure the appropriate follow-up to the conclusions of the Conference Committee as early as possible, in consultation with the social partners, and to provide information in this regard. The Committee also expresses the firm hope that the measures taken, including the adoption and revision of the relevant implementing legislation, will provide an adequate response to the following comments of the Committee.***

A. Minimum wage

Article 1 of Convention No. 26. Scope of minimum wage protection. Following its previous comments, the Committee notes the Government's indication that the scope of the minimum wage may be revisited in the next review of the National Minimum Wage Act 2019. The Committee also notes that a proposal for the extension of the minimum wage coverage is included in the road map adopted by the tripartite constituents on 10 August 2022. ***The Committee hopes that in the context of the initiatives referred to by the Government, all the necessary measures will be taken to fix minimum rates of wages for workers employed in certain trades or parts of trades in which no arrangements exist for the effective regulation of wages by collective agreement or otherwise and where wages are exceptionally low. It requests the Government to provide information on the progress made with regard to the road map's implementation.***

Article 4(1). System of supervision and sanctions. Following its previous comments, the Committee notes the Government's indication that the four states which have yet to apply the national minimum wage are being monitored by the state labour offices of the Federal Ministry of Labour and Employment, and by the National Salaries, Incomes and Wages Commission. The Committee also notes that, at the tripartite meeting on 10 August 2022, the constituents agreed: (i) to establish a tripartite structure to review sanctions, identify gaps and make proposals towards strengthening the supervision and enforcement of the National Minimum Wage Act 2019; and (ii) to recommend additional capacity building for labour officers on the need for effective and adequate monitoring and enforcement of sanctions. ***The Committee requests the Government to continue to take the necessary measures to ensure, by way of a system of supervision and sanctions, that wages are not paid at less than the minimum wage rates in cases where they are applicable. The Committee requests the Government to provide further information on the measures taken in this regard, including those taken to ensure that the four states that have yet to apply the national minimum wage, comply with the National Minimum Wage Act 2019.***

B. Protection of wages

Article 2 of Convention No. 95. Protection of wages of homeworkers and domestic workers. Following its previous comments, the Committee notes the Government's indication that the Labour Standards Bill, which focuses on domestic workers rather than homeworkers, has been reviewed and validated by the social partners and is awaiting further action. The Committee nevertheless observes an absence of information concerning the time frame for adopting this legislation. ***The Committee once again requests the Government to continue to make every effort to ensure the protection of wages of domestic workers, including through the adoption of the Labour Standards Bill, and to provide information on any progress made in this respect.***

Articles 6, 7(2), 12(1) and 14. Workers' freedom to dispose of their wages. Work stores. Regular payment of wages. Information on wages before entering employment and wage statements. Following its previous comments, the Committee notes the Government's indication that: (i) section 35 of the Labour Act has been raised during the National Tripartite Labour Bill Reviews and deleted from the Labour Standards Bill, and the protection of wages and of workers' freedom to dispose of their wages are covered under sections 11, 12 and 13 of the Labour Standards Bill; (ii) the recommended amendment concerning work stores and section 6 of the Labour Act has been executed in the Labour Standards Bill; and (iii) payslips are available on request retrospectively, and section 14 of the Labour Standards Bill would provide for written particulars of terms of employment to be provided before the start of employment. ***Taking due note of this information, the Committee encourages the Government to pursue its efforts to ensure the application in law and in practice of these provisions of the Convention, including through the adoption of the Labour Standards Bill. The Committee requests the Government to provide information on any court decision or arbitration award issued in relation to these Articles of the Convention.***

Article 12(1). Regular payment of wages. Following its previous comments on this issue, the Committee notes the observations of the ITUC, indicating that wage arrears have become an issue of great concern for workers and that wages are not paid regularly in several states. The Committee also notes the information provided by the Government on the measures envisaged in this regard, including its intention to utilise the NLAC to drive home the need to protect wages. ***The Committee requests the Government to continue to take all necessary measures to address this issue, including the strengthening of supervision and sanctions, and to provide information on the progress made.***

Rwanda

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1962)

Previous comment

Articles 1 and 3(2) of the Convention. Minimum wage-fixing machinery. Consultation of employers' and workers' organizations. Following its previous comments, the Committee notes with ***regret*** that the Government indicates in its report that the draft Ministerial Order determining the minimum wage has not yet been adopted. The Government also indicates that: (i) the draft Ministerial Order was discussed within the tripartite National Labour Council in 2018 and is presently still subject to consultation between all relevant stakeholders; and (ii) the negative impact of the COVID-19 pandemic on the labour market and the economy will also call for relevant assessments to be made. ***Recalling that the last adjustment to minimum wage rates was made in 1980, the Committee urges the Government to take the necessary measures to fix new minimum wage rates, including through the adoption of the Ministerial Order determining the minimum wage, without delay and in consultation with social partners.***

Article 4. Sanctions. Following its previous comments, the Committee notes that the Government indicates that section 23 of the Ministerial Order No. 001/19.20 of 17 March 2020 relating to Labour

Inspection establishes the modalities of application of administrative fines for obstructing the work of the labour inspectorate, as provided under section 120 of the Labour Code. The Committee observes that neither the Labour Code nor the Ministerial Order provide for sanctions in the case of violations of provisions concerning minimum wages. ***The Committee once again requests the Government to take the necessary measures to put in place a system of sanctions, to ensure that wages are not paid at less than the minimum wage rates determined.***

Tajikistan

Protection of Wages Convention, 1949 (No. 95) (ratification: 1993)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 7(2) of the Convention. Works stores. The Committee notes that the Government's report does not contain information in response to its previous request on this issue. ***The Committee therefore requests the Government once again to provide information on the measures adopted with the object of ensuring that goods at work stores are sold, and services provided at fair and reasonable prices, or that stores established and services operated by the employer are not operated for the purpose of securing a profit, but for the benefit of the workers concerned, as required by this Article of the Convention.***

Articles 12 and 15(b). Regular payment of wages. Control of compliance. Further to its previous comments concerning wage arrears in the country, the Committee notes that the Government indicates that the total amount of arrears of wages as of 1 May 2020, including arrears from previous years, increased by 78.8 per cent compared to the same period in 2019. The Government further indicates that local government authorities have adopted decisions and that the leaders of provinces, towns and districts have adopted decrees to establish the "Executive Unit for the Elimination of Wage Arrears". Concerning enforcement activities, the Committee notes that the Government's report does not contain information in response to its previous request. ***Taking note with concern of the continued situation of wage arrears in the country and its dramatic increase in 2020, the Committee requests the Government to step up its efforts to address this issue and to provide information on the results of the measures adopted and envisaged in this regard. The Committee also requests once again the Government to provide information on the number of inspection visits undertaken to ensure compliance with the timely payment of wages by sector, the number of cases of non-compliance detected and the measures taken to settle all outstanding payments, including adequate penalties or other appropriate remedies.***

Articles 14(b) and 15(d). Wage statements and record-keeping. Further to its previous comments requesting the Government to indicate how effect is given to these provisions, the Committee notes that the Government's report is silent on this issue. ***The Committee therefore once again requests the Government to: (i) specify how it is ensured that workers are informed at the time of each payment of the particulars of their wages for the period concerned, for example by means of payslips (Article 14(b)), and (ii) indicate any legislative or administrative provisions regulating the form and manner in which payroll records must be kept, as well as the specific wage particulars to be shown in those records (Article 15(d)).***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Uganda

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1963)

Protection of Wages Convention, 1949 (No. 95) (ratification: 1963)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on wages, the Committee considers it appropriate to examine Conventions Nos 26 (minimum wage) and 95 (protection of wages) together.

Legislative developments. The Committee notes that, according to information provided by the ILO Country Office for the United Republic of Tanzania, Burundi, Kenya, Rwanda and Uganda, the Employment Act 2006 is currently being revised in consultation with social partners. ***The Committee requests the Government to provide information on the developments in this regard, and to provide a copy of the amended Employment Act 2006, once adopted. The Committee also hopes that its comments on the Protection of Wages Convention, 1949 (No. 95) will be taken into account in the framework of the revision of the Act, and recalls that the Government can avail itself of the technical assistance of the ILO in this regard.***

Minimum wage

Article 3 of Convention No. 26. Operation of the minimum wage fixing machinery. The Committee recalls that, following the discussion of this case before the Conference Committee on the Application of Standards in June 2014, it had requested the Government to provide information with regard to the announced reactivation of the Minimum Wages Advisory Board and the subsequent fixation of a new minimum wage in the country. The Committee notes that the Government indicates in its report that a Minimum Wages Advisory Board was appointed in 2015 and that it undertook a comprehensive study of the economy with a view to providing advice to the Government on the feasibility of fixing a minimum wage in the country and the form that the minimum wage should take. The Government also indicates that the report of the Board was under discussion in the Cabinet. Despite the progress made with the reactivation of the minimum wage fixing mechanism in 2015, the Committee notes with **concern** that the minimum wage, which was last set in 1984, has yet to be adjusted. ***It therefore requests the Government to take the necessary measures to revise the level of the minimum wage without further delay. Recalling the importance of ensuring the close involvement of employers' and workers' organizations at all stages of this process, the Committee requests the Government to provide information on the composition of the Minimum Wages Advisory Board and on the consultations undertaken with the social partners in revising the level of the minimum wage.***

Protection of wages

The Committee notes with **deep concern** that the Government's report on Convention No. 95, due since 2017, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of Convention No. 95 on the basis of the information at its disposal.

Following its examination of the information at its disposal, the Committee notes that it is still missing important information on measures giving effect to *Articles 1, 4, 7(2), 8, 10, 12(1) and 14(a)* of Convention No. 95. The Committee is therefore bound to repeat its previous comments with regard to those Articles.

Article 1 of Convention No. 95. Coverage of all parts of the remuneration. The Committee notes that the definition of "wages" in section 2 of the Employment Act excludes "contributions made or to be made by the employer in respect of his or her employee's insurance, medical care, welfare, education, training, invalidity, retirement pension, post-service gratuity or severance allowance". The Committee recalls that the definition of wages for the purposes of the Convention is very broad and that it intends to cover the benefits excluded under section 2 of the Employment Act. ***Since this Act is the main legislation implementing the Convention, the Committee requests the Government to indicate the measures taken to provide workers with the protection afforded in the Convention in relation to the elements of their remuneration which are excluded under section 2 of the Employment Act.***

Article 4. Partial payment in kind. The Committee notes that sections 41(3) and 97(2)(i) of the Employment Act address the issue of partial payment of wages in kind and provide that the Minister may adopt regulations on this matter. ***It requests the Government to indicate whether such regulations have been adopted.***

Article 7(2). Works stores. The Committee notes that section 41(4) of the Employment Act provides that an employee shall not be obliged to make use of any shops established by the employer for the use of his or her employees or services operated in connection with the undertaking. The Committee recalls that *Article 7(2)* requires that where access to other stores or services other than those operated by the employer is not possible, the competent authority shall take appropriate measures in order to ensure that goods and

services are sold at a fair and reasonable price and in the interest of the workers. **The Committee therefore requests the Government to indicate what measures are in place in order to ensure the application of this provision of the Convention.**

Articles 8 and 10. Deductions from wages and attachment of wages. The Committee notes that section 46(1) of the Employment Act provides a list of authorized deductions from wages and that section 46(3) provides that attachment of wages shall be limited to no more than two-thirds of all remuneration due in respect of a specific pay period. The Committee therefore notes that, while there is an overall limit on attachment of wages, there is no such limit for deductions from wages. In this regard, the Committee recalls that, in addition to setting specific limits for each type of deduction, it is also important to establish an overall limit beyond which wages cannot be further reduced, in order to protect the income of workers in the case of multiple deductions. **The Committee therefore requests the Government to take the necessary measures for the establishment of specific and overall limits to deductions from wages.**

Article 12(1). Regular payment of wages. With reference to its previous request concerning the issue of irregular payment of wages, the Committee notes that the Government merely repeats in its report the information previously provided. In relation to the lack of a functional Industrial Court, which had been noted in its previous comments, the Committee notes that information is available on the Court's website indicating that a number of awards have been adopted since 2015. It also notes that two judges and the registrar of the Court have participated in a training activity on international labour standards delivered by the International Training Centre of the ILO in Turin in June 2017. **In this context, the Committee once again requests the Government to provide up-to-date information on the situation of wage arrears in the country, including data on the number of workers affected by non-payment or delayed payment of wages, the sectors concerned and the results of labour inspections on these issues, and to indicate whether the Industrial Court has been dealing with any such cases.**

Article 14(a). Information on wages before entering employment. The Committee notes that section 59 of the Employment Act provides that an employee shall receive from the employer information on wages not later than 12 weeks after the date on which employment commences. The Committee recalls that *Article 14(a)* requires effective measures to be taken in order to ensure that employees are informed of the conditions in respect of wages before they enter employment. **The Committee therefore requests the Government to indicate which measures are in place in order to ensure full implementation of this Article of the Convention.**

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Bolivarian Republic of Venezuela

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1944)

Protection of Wages Convention, 1949 (No. 95) (ratification: 1982)

Previous comments

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on wages, the Committee considers it appropriate to examine Conventions Nos 26 (minimum wage) and 95 (protection of wages) together.

The Committee notes the observations concerning Convention No. 26 made by the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), received on 11 February 2022. The Committee also notes that the Bolivarian Socialist Confederation of Men and Women Workers in Urban and Rural Areas and Fishing of Venezuela (CBST-CCP) sent observations concerning Convention No. 26 that were received on 24 April 2022. The Committee also notes the following observations communicated with the Government's report, formulated by: (i) FEDECAMARAS, on Convention No. 26; (ii) CBST-CCP, on Convention no. 26; and (iii) jointly, from the Confederation of Workers of Venezuela (CTV) the Federation of University Teachers' Associations of Venezuela (FAPUV) and the Independent Trade Union Alliance Confederation of Workers (CTASI), on Conventions Nos 26

and 95. The Committee also notes the observations formulated by the National Union of State and Public Service Workers (UNETE), on Convention No. 26, received on 5 September 2022.

Minimum wage

Follow-up to the recommendations of the Commission of Inquiry (complaint made under article 26 of the Constitution of the ILO)

Article 3 of Convention No. 26. Participation of the social partners in minimum wage fixing. With regard to its previous comment, the Committee notes the discussions at the 344th, 345th and 346th Sessions (March, June and November 2022) of the Governing Body on the progress report concerning the operation of the social dialogue forum in giving effect to the recommendations of the Commission of Inquiry, as well as the corresponding decisions adopted. In particular, the Committee notes that: (i) the inaugural session of the social dialogue forum (the forum) was held in a virtual format on 7 March 2022, chaired by the Minister of Popular Power for the Social Process of Labour, with the participation of the Director-General of the ILO and of the following employers' and workers' organizations: FEDECAMARAS; CBST-CCP; the Venezuelan Federation of Craft, Micro, Small and Medium-Sized Business Associations (FEDEINDUSTRIA); CTASI; CTV; UNETE; the General Confederation of Labour (CGT); and the Confederation of Autonomous Trade Unions (CODESA). The inaugural session adopted the terms of reference for the forum, which included addressing all pending questions concerning the application of Conventions Nos 26, 87 and 144; (ii) the first in-person session of the forum was held in Caracas from 25 to 28 April 2022, with ILO technical assistance. It produced a plan of action including a timetable of activities related to compliance with the cited Conventions; and (iii) a follow-up session of the forum was held in Caracas from 26 to 29 September 2022, with ILO technical assistance; it assessed the activities undertaken as part of the implementation of the plan of action adopted in April and agreed on updating the plan of action. The Committee notes that the Governing Body will again examine the progress made by the Government in ensuring compliance with the recommendations of the Commission of Inquiry at its 347th Session (March 2023).

Further to its previous comments on this matter, the Committee notes the Government's indication in its report that: (i) on 20 December 2021, formal written consultations were undertaken, that included relevant statistical data for analysis, as a basis for opinion and response, with FEDECAMARAS, FEDEINDUSTRIA, CBST, CTASI, CTV, UNETE, CGT, and CODESA; (ii) on 3 March 2022, the President of the Republic publicly announced the proposal for an increase in wages equivalent to half a Petro (cryptocurrency), and this was made effective by Decree No. 4653, published in Official Gazette No. 6691, Special Edition of 15 March 2022; and (iii) on 4 March consultations were held with the above-mentioned social partners regarding the impact of the President's announcement. The Government also indicates that, in line with undertakings made at the April and September 2022 meetings of the forum, the following activities related to compliance with the Convention were carried out: (i) in the week of 13 to 19 July, a round of dialogue meetings were held with the employers' and workers' organizations concerned regarding compliance with the Conventions, including Convention No. 26; (ii) on 7 and 12 September 2022, meetings were held with the workers' organizations (CBST-CCP; CTASI; and CTV) and employers' organizations (FEDECAMARAS and FEDEINDUSTRIA) respectively, to exchange views on the method for fixing minimum wages, including the criteria and source of the relevant economic, social and labour reference data; (iii) on 20 October 2022, a tripartite meeting was held to discuss the constitution of a working party with regard to fixing the minimum wage; and (iv) on 25 October a workshop was held on indicators related to the minimum wage, with the support of the Minister of Popular Power for Planning. The Government also indicates that it has drawn up a timetable, included as an annex to its report, for tripartite and bipartite activities to be conducted between the second half of November 2022 and February 2023, which include: (i) the holding of a tripartite workshop on minimum wage methodology with ILO technical assistance (22 November 2022); (ii) dispatching formal

invitations for consultations on minimum wage increases to the workers' and employers' organizations (15 December 2022); (iii) the organization of bipartite sectoral meetings to exchange views on proposals for the minimum wage (18 January 2023); and (iv) the holding of a tripartite meeting on methods of defining the minimum wage (25 January 2023). Lastly, the Government indicates that the third in-person session of the forum will be held in the week of 6 to 10 February 2023, with ILO technical assistance.

In this regard, the Committee notes that in its observations, FEDECAMARAS indicates that: (i) in November 2021, the Ministry of Popular Power for the Social Process of Labour (MPPPST) forwarded to FEDECAMARAS the rules established for the consultation process on the minimum wage (broad consultation once annually, meetings during the first quarter of each year with the social partners and relevant institutions and bodies, and a written communication accompanied by elements of the national and international context that impact on the socio-economic reality and relevant official indicators, such as the cost of the basic food basket); (ii) by a communication dated 20 December 2021, the MPPPST submitted several economic, poverty and labour force indicators to FEDECAMARAS; (iii) by a communication of 23 February 2022, the MPPPST requested FEDECAMARAS to present additional, updated information concerning the increase of the minimum wage; (iv) on 3 March 2022, without organizing the consultation and meetings foreseen for the first quarter of 2022, the President of the Republic announced publicly an increase in the minimum wage; (v) on 4 March 2022, the MPPPST sent a communication to FEDECAMARAS requesting the organization's opinion and recommendations on the impact and implications of the measures announced; on the same day, a meeting took place between the MPPPST with the participation of FEDECAMARAS and FEDEINDUSTRIA, at which FEDECAMARAS expressed concern at the failure to comply with the proposed methodology, and in particular at the lack of real discussion and effective dialogue between the tripartite actors on this matter; and (vi) the announced wage increase became effective after publication in the Official Gazette of 15 March 2022.

For its part, the CBST-CCP indicates in its observations that the Government regularly sends, once or twice annually, written communications to the workers' and employers' organizations regarding the minimum wage consultations.

The Committee also notes that in their joint observations, the CTV, the FAPUV and the CTASI indicate that by official letter No. 502/2021, the MPPPST requested their opinions, expectations, and suggestions on how the wages dynamic within the country should be aligned with the Convention; the CTASI, while considering this approach inappropriate, put forward a proposal, but received no response. In this regard, the above-mentioned organizations state that the steps taken are insufficient and cannot be considered as complying with the Convention, since in practice no account is taken of proposals and contributions made by the trade union organizations, and the national executive simply and unilaterally determines the increase in the national minimum wage.

The Committee also notes that FEDECAMARAS, the CTV, the FAPUV and the CTASI all concur that the meeting to discuss wage indicators, scheduled for July 2022 in the timetable annexed to the plan of action adopted in April 2022, did not take place.

Finally, the Committee notes that the UNETE indicates in its observations that the Government has not adopted a single measure requiring consultation with the employers' and workers' organizations on fixing the minimum wage.

Regarding the March 2022 wage increase, the Committee observes that: (i) while it was preceded by communications sent several months previously requesting the social partners' opinions on the issue, it did not comply with the methodology established previously by the Government, consisting of structured meetings intended to result in full compliance with the recommendations of the Commission of Inquiry; and (ii) FEDECAMARAS, the CTV, the FAPUV, the CTASI and also the UNETE all agree that their proposals and contributions are not truly taken into account in final decision taking. Regarding the plan of action for Convention No. 26 adopted in April 2022, the Committee notes that it did not follow the programmed time frame, since only two meetings were held on indicators, and those were out of sync

with the schedule that had been fixed, prior to the September forum meeting. Finally, the Committee observes that the plan of action adopted in September 2022 includes: (1) setting up a series of technical round tables to devise the methods of fixing the minimum wage, with ILO technical assistance; (2) implementing a timetable drawn up by the Government to that end, to be completed by February 2023; (3) dispatching of formal invitations to consult on increasing the minimum wage; (4) the holding of meetings to discuss proposals for the minimum wage; and (5) the holding of a tripartite meeting to devise methods for fixing the minimum wage. In light of the above, the Committee notes with **regret** the MPPPST's failure to comply with the proposed methodology for the consultation process on fixing the increase of the minimum wage that was decreed in March 2022. ***The Committee firmly hopes that, in the framework of opportunities opened up by the process begun with the establishment and follow-up of the social dialogue forum, all measures provided in the plan of action updated in September 2022 will be implemented, including the timetable of activities presented by the Government. It also hopes that these measures will yield tangible progress in the development and application of methods of fixing the minimum wage, as required by the Convention and in following the recommendations of the Commission of Inquiry. In particular, the Committee urges the Government, at the next increase of the minimum wage, to take the necessary measures to ensure that the increase is preceded by a thorough consultation process, conducted sufficiently in advance, within a framework of structured, informed and effective discussions, in which due account is taken of the proposals made on this matter by the employers' and workers' organizations.***

Protection of wages

Article 4 of Convention No. 95. Payment in kind. "Socialist cestaticket" (food voucher). With regard to its previous comments, the Committee notes from the Government's report that: (i) regarding payment of the "socialist cestaticket" benefit, roundtables have been set up with active participation of the employers' and workers' organizations, and these have concluded agreements that are beneficial for the workers; and (ii) as of 15 March 2022, the value of the "socialist cestaticket" was increased, without affecting the benefit provided by the Local Supply and Production Committees (CLAP) in the distribution of subsidized foodstuffs. The Committee also notes that the CTV, FAPUV and CTASI state in their joint observations that payment of wages with various types of vouchers or with food is common in the public and private sector. In this regard, the Committee notes with **regret** that, on the basis of the information presented by the Government, and the observations of the above-mentioned workers' organizations, it cannot be concluded that progress has been made in resolving this issue. ***While referring back to the analysis it has made in previous years on this matter (see in particular the [observation adopted in 2017](#)), the Committee once again requests the Government to take the necessary measures without delay, through dialogue with the representative organizations of the employers and workers, to examine solutions that allow the full application of Article 4 of the Convention. The Committee requests the Government to provide information in this respect, in particular with regard to the composition and operation of the above-mentioned roundtables, and the agreements reached following the debate held within them.***

Articles 5 and 14. Electronic payment of wages. Information on constituent elements of wages. The Committee notes the Government's indication, in response to its previous comment, that it is providing information and instructions to the workforce regarding the correct use of electronic means to obtain their wages. The Committee also notes that the CTV, the FAPUV and the CTASI indicate that the electronic payment of wages causes immense problems for workers, especially for those who live in localities where there are no banking services, no electricity and no transport to take them to another locality. The above-mentioned workers' organizations particularly stress that workers have serious difficulty in withdrawing sums sufficient to cover their most basic needs, and meanwhile the money that they are unable to withdraw from their accounts falls in value every day. The Committee notes with **regret** that no progress has been made regarding this issue. The same workers' organizations indicate

that the payrolls are managed by the “sistema patria”, which makes it impossible for the worker to obtain a receipt detailing their income and payroll deductions, a method that is tantamount to an attack on the worker’s wages, given the absence of an office to which to make claims regarding omissions or errors in the payment of wages. ***The Committee once more requests the Government to take effective measures in consultation with the social partners to address the issues both of the electronic payment of wages, and of providing information to workers concerning the constituent elements of their wages, in conformity with the Convention, and to provide information in this respect.***

Article 12. Delayed payment of wages. The Committee notes the Government’s indication, in response to its previous comment, that the Constitutional Chamber of the Supreme Court of Justice, in ruling No. 5 of 19 January 2017, ordered the National Budget Office (ONAPRE) of the National Executive, to pay the wages owed to workers of the national legislative body, and the wage claims were subsequently settled through the Ministry of Finance.

[The Government is asked to reply in full to the present comments in 2023.]

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 26** (Congo, Côte d’Ivoire); **Convention No. 95** (Central African Republic, Chad, Congo, Côte d’Ivoire, Lebanon, Libya, Niger, Saudi Arabia); **Convention No. 99** (Côte d’Ivoire); **Convention No. 131** (Cameroon, El Salvador, Lebanon, Morocco, Nepal, Niger).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 26** (China: Macau Special Administrative Region, Colombia, Democratic Republic of the Congo, Myanmar); **Convention No. 95** (Colombia, Cyprus); **Convention No. 99** (Colombia); **Convention No. 131** (Netherlands).

Working time

China

Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1934)

Previous comment

Articles 4, 5 and 6 of the Convention. Exceptions to weekly rest. Compensation. Consultation. Following its previous comments on the flexible working time schemes provided for by the Measures for the Examination and Approval of Flexible Working Hours Arrangement and Consolidated Hours Scheme (No. 503), 1994 (hereinafter, Approval Measures), the Committee notes that the Government indicates in its report that: (i) in accordance with the provisions of section 39 of the Labour Law and the Approval Measures, if an enterprise cannot implement the standard working-hour system due to its production characteristics, with the approval of the labour administrative department, it can implement other work and rest systems such as the integrated working hour system; (ii) the integrated working hour system is mainly applicable to the positions that need continuous work within a certain period of time, such as those in transportation, railway, post and telecommunications, water transportation, aviation, fishery and other sectors, as well as the positions in the sectors that require to arrange concentrated work and concentrated rest due to seasonal and natural conditions, such as the positions in geological and natural resource exploration, construction, salt making, sugar making, tourism and other sectors; (iii) if an enterprise makes the workers who follow the integrated working hour system work on official holidays, they shall pay overtime wages according to the standard of extended working hours on official holidays; (iv) the departments of human resources and social security at all levels have strictly enforced the approval procedures, requiring enterprises to fully consult their employees and the trade union of the enterprise, failure to which will result in disapproval; (v) if an employer infringes upon the rights of workers to rest and remuneration, he or she will be punished according to law, and workers have the right to safeguard their rights and interests by complaining to the labour inspectorate and applying for arbitration of labour disputes; and (vi) from 2013 to 2021, labour inspectorates at all levels have investigated and dealt with a total of 120,000 cases of various violations of working hours and provisions on rest and vacation, including violations of the provisions on weekly rest. In this respect, the Committee observes that according to section 44 of the Labour Law, overtime compensation, including work during weekly rest, shall be paid if no compensatory rest is granted, and that the Approval measures do not seem to contain provisions regarding the granting of compensatory rest in case of work during the weekly rest period. The Committee recalls that *Article 5* of the Convention requires workers who are deprived of their weekly rest to be granted compensatory rest irrespective of any monetary compensation, in order to protect the physical and mental health of workers. ***The Committee therefore requests the Government to take the necessary measures to ensure that in law and in practice, compensatory rest is granted to workers who are required to work in their weekly rest day. It also requests the Government to continue making every effort to ensure that authorizations to work during the weekly period are granted, special regard being had to all proper humanitarian and economic considerations and after consultation with responsible associations of employers and workers. It finally requests the Government to provide information on any progress made in this respect, including regarding the activities of the labour inspectorate to prevent and sanction infringements to workers' weekly rest entitlements.***

China

Macau Special Administrative Region

Hours of Work (Industry) Convention, 1919 (No. 1) (notification: 1999)

Weekly Rest (Industry) Convention, 1921 (No. 14) (notification: 1999)

Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) (notification: 1999)

[Previous comment on Convention No. 1](#)

[Previous comment on Convention No. 14](#)

[Previous comment on Convention No. 106](#)

In order to provide a comprehensive view of the issues relating to the application of the Conventions on working time, the Committee considers it appropriate to examine Conventions Nos 1 (hours of work (industry)), 14 (weekly rest (industry)) and 106 (weekly rest (commerce and offices)) together.

Hours of work

Articles 2(b) and (c), 4 and 5 of Convention No.1. Variable distribution of working hours. Further to its previous comments, the Committee notes that the Government in its report refers to section 33(2) of Law No. 7/2008, which provides that the employer may, depending on the characteristics of the operation of the undertaking, agree with the worker that the daily working period exceeds the limits of 8 hours per day, provided that the worker has 10 consecutive hours of rest per day, totalling not less than 12 hours, and that the working period may not exceed 48 hours per week. The Committee also notes that under section 40(3) of the Law No. 7/2008, the organization of shift work shall be subject to the maximum limits of the normal working period and shall guarantee the worker 10 consecutive hours of rest per day, totalling not less than 12 hours, and the working hours may be fixed with continuous or interspersed working periods. In this respect, the Committee recalls that the averaging of hours of work in general is authorized in the Convention only over a reference period of one week, and provided that a daily limit of nine hours is required (*Article 2(b)*); in all the other cases in which the averaging of working hours is allowed over reference periods longer than a week, the circumstances are clearly specified, as follows: (i) in case of shift work, it shall be permissible to employ persons in excess of 8 hours in any 1 day and 48 hours in any 1 week, if the average number of hours over a period of three weeks or less does not exceed 8 per day and 48 per week (*Article 2(c)*); (ii) in those processes which are required by reason of the nature of the process to be carried on continuously by a succession of shifts, the daily and weekly limit of hours of work may be exceeded subject to the condition that the working hours shall not exceed 56 in the week on the average (*Article 4*); and (iii) in exceptional cases where it is recognized that the limits of 8 hours a day and 48 hours a week cannot be applied, but only in such cases, agreements between workers' and employers' organizations concerning the daily limit of work over a longer period of time may be given the force of regulations, provided that the average number of hours worked per week, over the number of weeks covered by such an agreement, shall not exceed 48 (*Article 5*). **Therefore, the Committee requests the Government to take the necessary measures to bring the above provisions of the Law No. 7/2008 into conformity with the requirements of the Convention, and to provide information on any progress made in this regard.**

Article 6. Temporary exceptions. Circumstances and limits. The Committee observes that section 36 of the Law No. 7/2008 providing for overtime: (i) only prescribes the circumstances under which an employer may request an employee to work overtime without the employee's consent and remains silent on the circumstances under which resort to overtime can be made with the employee's consent; and (ii) does not seem to fix any clear limits to additional hours. The Committee also observes that

section 37(2) of the Law No. 7/2008 provides that additional hours performed at the request of the employer with the consent of the worker or at the initiative of the worker with the consent of the employer are remunerated at a rate 20 per cent higher than normal hours. The Committee recalls that: (i) temporary exceptions to normal hours of work are authorized in the Convention in very limited and well-circumscribed cases; (ii) regulations shall fix the maximum of additional hours; and (iii) the rate of pay for overtime shall not be less than one and one-quarter times the regular rate. **Therefore, the Committee requests the Government to take the necessary measures, including the revision of Law No. 7/2008, to: (i) define the exceptional circumstances under which normal hours of work may be temporarily increased in industrial establishments; (ii) fix the maximum of additional hours allowed; and (iii) provide a rate of pay for overtime at least one and one-quarter times the regular rate, in accordance with this Article of the Convention.**

Weekly rest

Articles 4 and 5 of Convention No. 14 and Articles 7 and 8 of Convention No. 106. *Exceptions and compensatory rest.* Following its previous comments on sections 42.2 (flexible weekly rest scheme) and 43.3 (work voluntarily performed by workers on their weekly rest day) of the Law No. 7/2008, the Committee notes that the Government indicates in its reports that: (i) due to the nature of the activities in industry and enterprises, and in order to promote the sustainable development of the society, a more flexible approach is adopted in the law to regulate the weekly rest days, while balancing the interests of both employers and employees; (ii) the 2020 amendment of Law No. 7/2008, adds the requirement of recording the workers' voluntariness to perform work on weekly rest day; (iii) the provision does not provide for overtime remuneration as compensation for work performed on weekly rest day, but rather the compensatory rest should take precedence; and (iv) since the compensatory rest must be taken within 30 days of work, if the compensatory time off cannot be taken, the provision provides for overtime remuneration instead. **The Committee requests the Government to take the necessary measures, including the revision of Law No. 7/2008, to ensure that in case of exceptions to the principle of weekly rest, all workers working on their weekly rest day benefit in respect of each period of seven days, to rest of a total duration at least equivalent to 24 consecutive hours, irrespective of any monetary compensation.**

Colombia

Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1933)

Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1933)

Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1969)

Holidays with Pay Convention, 1936 (No. 52) (ratification: 1963)

Holidays with Pay (Agriculture) Convention, 1952 (No. 101) (ratification: 1969)

Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) (ratification: 1969)

[Previous comment on Convention No. 1](#)

[Previous comment on Convention No. 14](#)

[Previous comment on Convention No. 30](#)

[Previous comment on Convention No. 52](#)

[Previous comment on Convention No. 101](#)

[Previous comment on Convention No. 106](#)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on hours of work, the Committee considers it appropriate to examine Conventions Nos 1 (hours of work in industry), 14 (weekly rest in industry), 30 (hours of work in commerce and offices),

52 (holidays with pay), 101 (holidays with pay in agriculture) and 106 (weekly rest in commerce and offices) in the same comment.

The Committee notes the observations of the Single Confederation of Workers (CUT), the Confederation of Workers of Colombia (CTC) and the General Confederation of Workers (CGT) on the application of Conventions Nos 1, 14, 30 and 52, sent together with the Government's reports. The Committee also notes the observations of the International Organisation of Employers (IOE), received on 31 August 2022, and the observations of the National Employers Association of Colombia (ANDI), sent together with the Government's reports, on the application of Conventions Nos 1 and 14. ***The Committee invites the Government, in the context of the social dialogue established in the country, to analyse with the social partners the reported situation of non-observation of the Conventions in the specific sectors referred to by the trade union confederations in their observations, and if such non-observance is established, to take the necessary measures in this regard.***

Legislative developments. The Committee notes the Government's reference in its reports to the adoption of Act No. 2101 of 2021 amending section 161 of the Substantive Labour Code (CST) (Labour Code) in order to reduce weekly working time from 48 to 42 hours in the private sector. The Government also indicates that the aforementioned Act will be implemented gradually between 2023 and 2026, without any cut in wages for workers. The Committee also notes the Government's indication that the purpose of this reduction is to give workers more space for family, social, recreational and cultural activities. The Committee further notes that the CUT, CTC and CGT indicate in their observations that, in the context of the State National Agreement of 2021, it has been agreed to establish a commission with representatives from the Administrative Department of the Public Service, the Ministry of Labour and the signatory trade union organizations with a view to drawing up a proposal to reduce working hours for public sector workers, without undermining their rights relating to wages. The Committee also notes that the IOE and the ANDI refer in their observations to the adoption of Act No. 2191 of 2022 governing the right of workers to disconnect from work outside the working day, during their rest periods and when on holiday. Lastly, the Committee duly notes the Government's proposal to conduct a tripartite analysis of the regulations in force, in the context of the Standing Advisory Committee on Wage and Labour Policies, in order to seek alternatives that address the observations of the workers' organizations. ***The Committee requests the Government to provide information on progress achieved in relation to revision of the limits on hours of work and hours of rest in the public sector. The Committee also requests the Government to provide information on the results of any tripartite examination of the regulations on working time. The Committee reminds the Government that it may avail itself, if it thinks it necessary, of technical assistance from the Office with regard to the points raised below.***

Hours of work

Article 2 of Convention No. 1 and Article 3 of Convention No. 30. Limits on normal hours of work. The Committee notes that section 161(1) of the Labour Code, after its amendment by Act No. 2101, provides that maximum normal weekly working time is 42 hours, which, by joint agreement between the worker and the employer, can be spread over 5 or 6 days in the week, while still guaranteeing the weekly day of rest. The Committee observes that this provision does not establish a daily limit on hours of work. In this regard, the Committee notes that the CUT, CTC and CGT indicate that they consider it dangerous and disadvantageous that the maximum daily limit of eight hours of work, which existed before the adoption of Act No. 2101, has disappeared. ***Recalling that the Conventions establish a double cumulative limit on normal working hours of eight hours per day and 48 hours per week, the Committee requests the Government to take the necessary steps to ensure that a specific daily limit on normal hours of work is established in law and practice, in accordance with the requirements of the Conventions.***

Article 2(b) of Convention No. 1 and Article 4 of Convention No. 30. Variable distribution of normal hours of work within the week. The Committee notes the indication of the CUT, CTC and CGT that, in the context of flexible daily hours of work authorized by section 161(c) of the Labour Code (distribution of 42 weekly hours over a maximum of six days per week, with a minimum of four continuous hours and a maximum of nine hours per day, subject to agreement between the employer and the worker), some workers, especially in the flower industry, currently work up to ten hours per day and others, such as workers in the plastics industry, work days of 12 hours or more. The Committee observes that while the limits of 42 hours per week and nine hours per day established by section 161(c) of the Labour Code are in conformity with the above-mentioned Articles of the Conventions, the limits on daily hours of work applied in practice in some industries, as referred to in the observations of the CUT, CTC and CGT, are not in conformity. In this regard, the Committee recalls that, in cases of variable distribution of working hours in the week, Convention No. 1 establishes a maximum limit of nine hours per day for industry workers, and Convention No. 30 sets a maximum limit of ten hours per day for workers in commerce and offices. The Committee also notes the Government's indication that: (i) the labour inspectorate does not receive a significant volume of complaints relating to hours of work; (ii) there is a need to reinforce routine inspections to extend coverage and increase monitoring of working hours in certain sectors of the economy which, in the context of flexibilization of working hours, exceed the established limit on hours; and (iii) it is hoped that improvements will be made in the supervision of hours of work in the informal economy through the introduction of pedagogical initiatives and action by the labour inspectorate. **While emphasizing the importance, when establishing flexible arrangements for hours of work, of ensuring the existence of reasonable limits on the maximum duration of daily and weekly hours of work so that these are not prejudicial to the health of workers or to the necessary work-life balance (2018 General Survey concerning working-time instruments, paragraph 178), the Committee requests the Government to continue taking the necessary steps to monitor compliance with the legal provisions on hours of work, particularly in the informal economy and in sectors of the economy where working hours apply that exceed the limits established in the Conventions. The Committee requests the Government to provide information on such measures and the results achieved.**

Articles 6(1)(b) and (2) of Convention No. 1 and Article 7(2), (3) and (4) of Convention No. 30. Temporary exceptions. Circumstances for and limits on additional hours of work. Remuneration. With regard to its previous comments on limits on additional hours of work, the Committee notes the Government's indication that the unnumbered section added to the Labour Code by section 22 of Act No. 50 of 1990 provides that additional hours, by day or by night, shall in no case exceed two hours per day and 12 hours per week; when working hours are extended, through agreements between employers and workers, to ten hours per day, additional hours shall not be worked on that day. In this regard, the Committee notes that *Article 7(3)* of Convention No. 30 requires not only a daily limit of additional hours of work undertaken by workers in commerce and offices, but also a yearly limit. In this connection, the Committee notes that the CUT, CTC and CGT indicate that the absence of monthly and annual limits on additional hours of work in the national legislation is one of the reasons for inappropriate use of such hours. The same organizations refer to individual cases of workers, mainly in the dock work sector, working exceptionally long hours (in some cases up to 18 hours a day), thus accumulating a high monthly and yearly number of additional hours. They further indicate that such hours are often unpaid. While recalling the impact that long hours of work can have on workers' health and work-private life balance, the Committee emphasizes the fundamental importance of prescribing clear statutory limits for the additional hours of work to be undertaken daily, weekly and yearly and of keeping the number of additional hours allowed within reasonable limits that take into account both the health and well-being of workers and the employers' productivity needs (2018 General Survey concerning working-time instruments, paragraph 151).

Regarding the circumstances in which recourse to additional hours of work is authorized, the Committee notes that section 162(1) of the Labour Code excludes certain categories of workers from

the limits established in section 161 (those holding management posts, domestic workers, workers who perform discontinuous or intermittent work, and driver-mechanics). The Committee also notes that section 162(2) also establishes that the activities not included in the preceding subsection shall only exceed the limits set out in section 161 with the expressed authorization of the Ministry of Labour. In this connection, the Committee notes that the CUT, CTC and CGT indicate, in their observations, that the legislation does not clearly establish the conditions in which additional hours of work may be authorized. In this regard, the Committee recalls the importance of national legislation and practice restricting recourse to exemptions from these maximum limits to cases of clear, well-defined and limited circumstances such as accident, actual or threatened, force majeure or urgent work to be done to plant or machinery (2018 General Survey concerning working-time instruments, paragraph 119). ***In light of the above, the Committee requests the Government to take the necessary measures to ensure that: (i) recourse to additional hours of work is limited to clear, well-defined circumstances; (ii) reasonable limits to additional working hours are established and respected; and (iii) additional working hours are effectively remunerated in conformity with the Conventions. The Committee also requests the Government to provide information on the application in practice of section 162(2) of the Labour Code, giving details of the number of authorizations issued by the Ministry of Labour by virtue of this provision, the activities and sectors concerned, the approximate number of workers affected by its application, and the maximum number of authorized additional working hours.***

Weekly rest

Article 4 of Convention No. 14 and Article 7(1) and (4) of Convention No. 106. Permanent exemptions from the principle of weekly rest. With regard to its previous comments, the Committee notes that the Government provides no information on the regulation of section 175(1) of the Labour Code, which authorizes special weekly rest schemes for work that cannot be interrupted due to its nature or for technical reasons, and for work to meet urgent needs, such as public services or the preparation and sale of food. In this connection, the Committee notes that the CUT, CTC and CGT indicate that the principle of weekly rest does not apply to private security workers, who generally work 12-hour rotating shifts (12 hours of work followed by 12 hours of rest, without enjoying weekly rest of 24 consecutive hours); they also indicate that such special weekly rest regimes need urgent regulation, as provided for under section 175(2) of the Labour Code. ***The Committee requests the Government, taking special account of all relevant social and economic considerations, and in consultation with the representative organizations of employers and workers, to adopt the necessary measures to regulate section 175(1) of the Labour Code to ensure that such exceptions remain within the limits established by these Articles of the Conventions. The Committee also requests the Government to indicate the categories of workers to which section 175(1) of the Labour Code applies in practice. The Committee further requests the Government to provide its comments on the observations of the CUT, CTC and CGT concerning the absence of weekly rest for workers in private security work.***

Article 5 of Convention No. 14 and Article 7(2) of Convention No. 106. Compensatory rest. In relation to its previous comments on sections 180 and 184 of the Labour Code, the Committee notes the Government's indications that, in order to establish whether workers have the right to compensatory rest and/or monetary remuneration, it is necessary to determine whether the work on the usual weekly rest day is regular or occasional. The Government also indicates that, under section 180 of the Labour Code, a worker who undertakes work on the weekly rest day on an occasional basis (up to two Sundays per calendar month, according to section 179(2)) may choose either a compensatory cash payment or compensatory rest. In this respect, the Committee reiterates the importance of granting compensatory rest in all cases to workers deprived of their weekly rest, irrespective of any monetary compensation. ***The Committee once again requests the Government to take the necessary measures to ensure that compensatory rest is granted to all workers who work on their weekly rest day, including those who***

undertake work on an exceptional basis or work that cannot be suspended, irrespective of any monetary compensation, in accordance with these Articles of the Convention.

Paid annual leave

Articles 2(1) and 4 of Convention No. 52 and Articles 1 and 8 of Convention No. 101. Right to paid annual leave. Relinquishment. The Committee notes that, in response to its previous comments, the Government indicates that, under section 189 of the Labour Code, the employer and the worker may agree in writing, upon the worker's request, that up to half of the 15 working days of paid annual leave be paid in cash, which implies that the worker must enjoy at least seven and a half days of leave for each year of service and that the remaining days of leave (seven and a half days or less) may be paid in cash. The Committee recalls that *Article 4* of Convention No. 52 and *Article 8* of Convention No. 101 provide that any agreement to relinquish the right to an annual holiday with pay, or to forgo such a holiday, shall be void, it being understood that this principle applies to the duration of annual holiday with pay as established by each ratifying Member State, whatever its length. ***The Committee requests the Government to take the necessary measures to bring section 189 of the Labour Code into line with these Articles of the Conventions.***

The Committee also notes that the CUT, CTC and CGT indicate that: (i) the successive hiring of workers for a determined period by cooperatives, temporary work agencies and outsourcing agencies makes it impossible to effectively enjoy annual leave, since at the end of each one-year contract, annual leave is paid in cash to the workers, who are immediately hired again on a temporary basis; and (ii) Ministry of Labour Circular No. 21 of 2020 established the possibility of granting annual leave in advance during the health emergency caused by the pandemic; however, since no limits have been set in this respect, workers who took advance annual leave that was allocated for subsequent years will not be able to take this entitlement again for several years. ***The Committee requests the Government to provide its comments in this respect and to take the necessary measures to guarantee in practice that all workers enjoy a period of annual leave which is paid after one year of continuous service, in accordance with the Conventions.***

Costa Rica

Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1982)

Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1984)

Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) (ratification: 1959)

[Previous comment on Convention No. 1](#)

[Previous comment on Convention No. 14](#)

[Previous comment on Convention No. 106](#)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on working time, the Committee considers it appropriate to examine Conventions Nos 1 (hours of work in industry), 14 (weekly rest in industry) and 106 (weekly rest in commerce and offices) together.

The Committee notes the observations submitted jointly by the Confederation of Workers Rerum Novarum (CTRN), the Costa Rican Workers' Movement Central (CMTC), the General Confederation of Workers (CGT) and the Workers' Unitary Confederation (CUT) and the Costa Rican Trade Union and Social Unity Bloc (BUSSCO), on Convention No. 1, received on 21 August 2022. The Committee also notes the observations of the Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP) on Conventions Nos 1, 14 and 106 submitted together with the Government's report.

Legislative developments. The Committee notes that, in their observations, the CTRN, CMTC, CGT, CUT and BUSSCO indicate that the Legislative Assembly is currently debating the draft Bill No. 21182 on the amendment of sections 136, 142 and 144 and the addition of sections 145 *bis* and 145 *ter* of the Labour Code, to update the exceptional periods of work and safeguard the rights of workers. The workers' organizations claim that the draft Bill, among other things: (i) fixes mandatory 12-hour days, which would affect the balance between work, rest and family life; (ii) eliminates the guarantee of pay for overtime; and (iii) incorporates annualized working hours into work that is seasonal, temporary or a continuous process, which would make workers' periods of work more intense.

The Committee notes that, in December 2021, the Office provided technical assistance regarding the Bill, at the request of the Permanent Committee on Fiscal Affairs of the Legislative Assembly. ***The Committee trusts that the Act to be adopted on working time will be in full conformity with the provisions of the Convention and requests the Government to provide information on the progress made in the process of adopting the draft Bill. The Committee recalls that the Government may avail itself of ILO technical assistance if it so wishes.***

Hours of work

Articles 3 and 6(1)(b) and (2) of the Convention. Temporary exceptions. Circumstances and limits to additional hours. Pay. Bus drivers. Regarding the circumstances in which recourse to overtime is authorized (sections 139 and 140 of the Labour Code), the Committee observes that: (1) neither section 139 nor section 140 of the Labour Code fixes in a precise and exhaustive manner the circumstances in which recourse to overtime is authorized; and (2) section 139(2) provides for unpaid overtime under one circumstance (errors committed by the employee) which is not covered by the Convention. The Committee recalls that the Convention only allows exceptions to the limits on periods of work in case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of "force majeure" or to deal with exceptional cases of pressure of work.

Further to its previous comments on bus drivers, the Committee notes the Government's indication in its report that: (i) according to the information provided by the National Labour Inspectorate of the Ministry of Labour and Social Security, 64 infringements of normal hours of work and 107 infringements related to overtime were identified in the road transport sector in general between 2015 and 2021; (ii) with regard to bus companies, during the same period, 309 cases of infringements of all kinds were detected; (iii) as a result of the actions carried out by the National Labour Inspectorate, 257 cases were resolved at the administrative level, 9 cases were resolved at the judicial level, 34 cases are being processed at the judicial level and 9 cases are being processed at the administrative level; in addition, in 191 cases the labour inspectorate's warnings were complied with, while in 42 cases they were not complied with. In this regard, the Committee also notes that in their joint observations, the CTRN, CMTC, CGT, CUT and BUSSCO indicate that: (i) while the regular period of work for bus drivers is eight hours a day, in most bus companies, drivers negotiate 12 hours a day or more with their employers; (ii) in some bus companies, drivers are required to perform tasks related to vehicle maintenance and the management of the money collected, outside their regular period of work, for which they are not paid; and (iii) during an inspection of a road transport company, in response to a number of complaints of labour exploitation, it was found that drivers' period of work exceeded 12 hours a day, reaching up to 19 hours a day in some cases; it was also found that the company did not pay overtime. In this regard, the Committee notes the UCCAEP's indication that: (i) since the adoption of Act No. 7679 of 1997 repealing section 146 of the Labour Code, the activity of bus drivers has been adjusted to a period of work of eight hours a day; (ii) the cases of infringements detected by the labour inspectorate have been resolved at administrative or judicial level, or are still in process, and therefore there is no evidence of a widespread practice of infringement of periods of work and overtime pay; and (iii) the problem of a lack of bus drivers results in the use of overtime to ensure continuity in the public service.

In this regard, recalling the impact that long hours can have on workers' health and work-private life balance, the Committee refers to the 2018 [General Survey concerning working-time instruments](#), paragraphs 119 and 151.

Consequently, the Committee requests the Government to continue taking the necessary measures, including by revising these provisions of the Labour Code and monitoring compliance with the legislation in force, to ensure that both in law and in practice: (i) recourse to overtime is limited to clear and well-defined circumstances; (ii) reasonable legal limits on overtime are established and enforced; and (iii) such hours are effectively paid, in accordance with the provisions of the Convention. The Committee requests the Government to provide information in this respect, including statistics on labour inspection activities related to hours of work and rest in the road transport sector, including violations found and penalties assessed.

Weekly rest

Articles 4 and 5 of Convention No. 14 and Articles 7 and 8 of Convention No. 106. Permanent or temporary exemptions to weekly rest – Compensatory rest. Further to its previous comments, the Committee notes the Government's indication in its reports that no amendments have been made to section 152(3) of the Labour Code, which provides that work shall be permitted on the weekly rest day, by agreement between the parties, in the case of work which is not arduous, unhealthy or hazardous, and which is carried out in agricultural or livestock breeding grounds, industrial undertakings which require continuity of work owing to the nature of the needs which they satisfy or for obvious public or social interest. The Committee also notes that section 152(5) of the Labour Code provides that in the case of activities of obvious public or social interest and where the worker does not agree to work on rest days, the employer may apply to the Ministry of Labour for authorization to grant rest periods on a cumulative monthly basis, and the Ministry may grant or refuse the authorization requested. The Committee observes that: (i) section 152(5) of the Labour Code does not guarantee the granting of compensatory rest in case of work on the weekly rest day, as the Ministry of Labour may refuse the requested authorization; and (ii) for other activities set out in section 152(3) of the Labour Code, no compensatory rest is provided for. **Consequently, the Committee requests the Government to take the necessary measures, including by amending this section of the Labour Code, to ensure that, in the case of exemptions from the principle of weekly rest, all workers are entitled in respect of each period of seven days to compensatory rest of a total duration comprising not less than 24 hours, regardless of any monetary compensation. The Committee also requests the Government to provide information in this regard.**

Czechia

Holidays with Pay Convention (Revised), 1970 (No. 132) (ratification: 1996)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 9 of the Convention. Postponement or accumulation of annual holidays. Further to its previous comments, the Committee notes with **satisfaction** that by Act No. 365/2011 Coll., sections 218 and 222 of the Labour Code have been amended and now provide that where leave cannot be taken until the end of the subsequent calendar year because the employee has been recognized as temporarily unfit for work, the employer shall grant such leave after the termination of the employee's incapacity to work. The Committee notes the Government's explanations that Act No. 365/2011 Coll. was adopted with a view to improving the position of employees in cases where paid leave cannot be taken in the calendar year in which it falls due, and guarantees that the right to leave does not expire by the mere lapse of time.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Haiti

Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1952)

Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1952)

Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1952)

Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) (ratification: 1958)

The Committee notes the joint observations of the Confederation of Haitian Workers (CTH) and of the Confederation of Public and Private Sector Workers (CTSP) received on 2 November 2022 on the application of the Conventions.

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it will proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on working time, the Committee considers it appropriate to examine Conventions Nos 1, 14, 30 and 106 in a single comment.

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP), received on 29 August 2018, the Association of Haitian Industries (ADIH), received on 31 August 2018, and the International Trade Union Confederation (ITUC), received on 1 September 2018.

***Follow-up to the conclusions of the Committee on the Application of Standards
(International Labour Conference, 107th Session, May–June 2018)***

The Committee notes the discussion which took place in the Conference Committee on the Application of Standards (Conference Committee), including with regard to the impact of the 2017 Act to organizing and regulating work over a 24-period divided into three segments of eight hours (hereinafter: Act on working time) on the application of the ratified Conventions on working time. In its conclusions, the Conference Committee asked the Government to: (i) review in consultation with the most representative employers' and workers' organizations the conformity of the Labour Code and the Act on working time, with respect to the ratified ILO Conventions on working time; (ii) strengthen the labour inspectorate and other relevant enforcement mechanisms to ensure that workers benefit from the protection afforded by the Conventions; (iii) report to the Committee of Experts on these measures; and (iv) avail itself of technical assistance to address these matters.

The Committee notes that, at the end of the discussion in the Conference Committee, the Government recalled that the Conventions that Haiti had ratified were part of its body of domestic law under article 276-2 of the Constitution of Haiti, and took precedence over national laws in the hierarchy of standards and could be invoked without reserve before the courts. Taking note of the observations of the Committee of Experts concerning the application of the Act on working time, the Government indicated that it was planning to hold tripartite consultations to identify and overcome the main difficulties encountered in the application of the Act, and to issue orders or regulations. The Government also indicated that it was aware of the delay in finalizing the process of reforming the Labour Code. Discussions had begun at the level of the Prime Minister's Office and would be continued within a tripartite framework, in the spirit of the San José Agreement of 21 March 2018 signed by the social partners, taking into account the Office's recommendations.

Furthermore, the Committee notes that the CTSP, in its observations, expresses regret at the lack of progress on working time issues since the discussion in the Conference Committee. However, the CTSP indicates that discussions on the reform of the Labour Code have resumed. The Committee also notes that the ADIH confirms that tripartite discussions on the reform of the Labour Code resumed in August 2018. According to the ADIH, the Act on working time should be repealed and the employers' and workers' organizations should be consulted on the application of the Conventions ratified in this field. The Committee further notes that the ITUC refers to the discussion of the case during the Conference Committee and

indicates in particular that: (i) the Act on working time, which liberalizes the regulations on this subject, is giving rise to serious abuses; (ii) the Act was adopted without consultation and outside the process of negotiation of a new Labour Code; and (iii) the situation is aggravated by the lack of resources for labour inspection. The ITUC refers in particular to: (i) workers in the informal economy and in domestic work who are subjected to indecent working conditions in terms of both working time and leave entitlement; (ii) security personnel and subcontracted workers in the textile sector, where there is a regrettable lack of fixed working hours and a refusal by employers to pay overtime; and (iii) workers in export processing zones who are particularly subjected to abuses. ***The Committee requests the Government to send its comments on all the above observations.***

Lastly, the Committee notes the Government's communication received on 30 October 2018 in which it informs the Committee that, further to the conclusions of the Conference Committee, it has requested ILO technical assistance to help it, inter alia, to submit the reports due, to strengthen the inspection services, to consolidate social dialogue with a view to pursuing social reforms, and to address the other matters raised by the Conference Committee. The Government also indicates that it hopes to receive this assistance before the next session of the International Labour Conference. ***The Committee hopes that this technical assistance will be made available without delay. The Committee requests the Government to provide detailed information on the results of the planned technical assistance, and also on the measures taken to ensure the effective application in law and practice of the ratified Conventions on working time.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Lithuania

Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1931)

Forty-Hour Week Convention, 1935 (No. 47) (ratification: 1994)

[Previous comment on Convention No. 1](#)

[Previous comment on Convention No. 47](#)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on working time, the Committee considers it appropriate to examine Conventions No. 1 and 47 (hours of work) together.

Legislative developments. The Committee notes the adoption of a new Labour Code (Law No. XII-2603) on 14 September 2016, which entered into force on 1 July 2017 and repealed the previous Labour Code (Law No. IX-926), with all amendments and additions.

Hours of work

Articles 2(b), 2(c), 4, and 5 of Convention No. 1 and Article 1 of Convention No. 47. Variable distribution of working hours. Circumstances. The principle of a 40-hour week. The Committee notes that sections 113 to 116 of the Labour Code regulate working time arrangements which include the averaging of working hours. Specifically, it notes that section 113(1) provides that the reference periods for these arrangements may not exceed three consecutive months; while section 114(2) sets as maximum limits for these arrangements 12 working hours per day and 60 per week, which is to include overtime and work done according to an agreement on additional work. In this respect, the Committee observes that none of these provisions sets any precise circumstances under which resort to averaging of working hours is allowed. The Committee recalls that the averaging of hours of work in general is authorized in the Convention only over a reference period of one week, and provided that a daily limit of nine hours is required (*Article 2(b)*); and that in all the other cases in which the averaging of working hours is allowed over reference periods longer than a week, the circumstances are clearly specified, as follows:

- (i) in case of shift work, it shall be permissible to employ persons in excess of 8 hours in any one day and 48 hours in any one week, if the average number of hours over a period of three weeks or less does not exceed 8 per day and 48 per week (*Article 2(c)*);
- (ii) in those processes which are required by reason of the nature of the process to be carried on continuously by a succession of shifts, the daily and weekly limit of hours of work may be exceeded subject to the condition that the working hours shall not exceed 56 in the week on the average (*Article 4*); and
- (iii) in exceptional cases where it is recognized that the limits of 8 hours a day and 48 hours a week cannot be applied, agreements between workers' and employers' organizations may fix a longer daily limit of works, provided that the average number of hours worked per week, over the number of weeks covered by any such agreement, shall not exceed 48 (*Article 5*).

Therefore, the Committee requests the Government to take the necessary measures to bring the above provisions of the Labour Code in conformity with the requirements of Convention No. 1.

Regarding the principle of the 40-hour week, the Committee notes that, in response to its previous comments, the Government indicates that section 112(3) of the Labour Code provides that an employee's standard working hours shall be 40 per week. The Committee observes however that by virtue of section 121 of the Labour Code, Government Resolution No. 534 of 28 June 2017 determines the peculiarities of working time and rest time in transport, electronic communications, postal, agricultural, peat excavation, agricultural processing, energy companies, medical and social care, educational institutions, fishing vessels and other economic activities, and provides for a list of jobs for which working hours of up to 24 hours a day may be applied. The Committee also observes that section 114(2) of the Labour Code prescribes, in cases of averaging in working time arrangements, maximum limits of 12 and 60 daily and weekly working hours respectively, in a context of undefined circumstances for resorting to averaging and over reference periods that extend up to three months.

Recalling that these provisions authorize practices that would possibly lead to unreasonably long hours of work, in direct contradiction to the principle of progressive reduction of hours of work, the Committee requests the Government to take the measures necessary to ensure that the principle of a 40-hour week provided for by Convention No. 47 is fully applied both in law and in practice.

Article 6 of Convention No. 1. Temporary exceptions. Circumstances. The Committee notes that section 119(2) of the Labour Code stipulates that the employer may only instruct an employee to perform overtime work with the employee's consent, except in cases where:

- (i) unplanned work critical to society must be performed or action must be taken to prevent calamities, dangers, accidents or natural disasters or to eliminate the consequences thereof that require prompt eradication;
- (ii) it is necessary to complete a job or eliminate a failure due to which a large number of employees would have to cease work or materials, products or equipment would be damaged; and
- (iii) this is stipulated in the collective agreement.

In this respect, the Committee observes that section 119 only prescribes the circumstances under which an employer may request an employee to work overtime without his or her consent, while remaining silent on the circumstances under which resort to overtime can be made with the employee's consent and by collective agreement. The Committee recalls that temporary exceptions to normal hours of work are authorized in the Convention in very limited and well-circumscribed cases. ***Recalling the impact that long hours of work can have on workers' health and work-private life balance, the Committee requests the Government to take the necessary measures to define the exceptional circumstances under which normal hours of work may be temporarily increased in industrial establishments, in accordance with this Article of the Convention.***

Madagascar

Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1960)

Holidays with Pay Convention (Revised), 1970 (No. 132) (ratification: 1972)

[Previous comment on Convention No. 14](#)

[Previous comment on Convention No. 132](#)

In order to provide an overview of matters relating to the application of the ratified Conventions on working time, the Committee considers it appropriate to examine the application of Conventions Nos 14 (weekly rest in industry) and 132 (holidays with pay) in a single comment.

The Committee notes the observations of the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE) and the General Confederation of Workers' Unions of Madagascar (FISEMA), received on 1 September 2022. It also notes the observations of the FISEMA and the Christian Confederation of Malagasy Trade Unions (SEKRIMA), received with the Government's report.

A. Weekly rest

Articles 4 and 5 of Convention No. 14. Total or partial exceptions – Compensatory rest. Further to its previous comments, the Committee notes the Government's indication in its report that no new legislative measures have been adopted to bring sections 13 to 15 of Decree No. 62-150 of 28 March 1962, which envisage exemptions from weekly rest without any compensatory rest, with *Article 5* of the Convention. In this regard, the Committee notes the observations of the FISEMA according to which no draft decree to amend Decree No. 62-150 has been discussed in the National Labour Council. It also notes the denunciation by the FISEMA that the weekly rest of certain employees in textile and industrial enterprises is not respected and that measures should be taken to penalize those enterprises. **The Committee requests the Government to take the necessary measures to ensure that compensatory rest is granted to the workers covered by the Convention who are required to work on their weekly rest day and to provide information on any progress achieved in this regard.**

B. Holidays with pay

Article 9(1) and (3) of Convention No. 132. Postponement and accumulation of paid holiday. In its previous comments, the Committee noted that section 88(5) of the Labour Code, under the terms of which workers have the possibility to accumulate their whole holiday entitlement over a period of three years preceding retirement, is not in conformity with the Convention. The Committee notes the Government's indication in its report that no measures have been adopted to bring the current legislation into conformity with *Article 9(1) and (3)* of the Convention. The Committee recalls that *Article 9* of the Convention provides that an uninterrupted part of the annual holiday with pay consisting of at least two working weeks shall be granted and taken each year, and the remainder may be postponed for a limited period. **The Committee requests the Government to take the necessary measures to bring the legislation and practice into conformity with the Convention on this point.**

Article 12. Prohibition of relinquishing annual holiday in exchange for financial compensation. Further to its previous comments, the Committee notes the Government's indication that it is compulsory to take annual holiday and that it is prohibited to relinquish this right in exchange for financial compensation. The Committee notes that the FISEMA once again reports cases in which workers relinquish their annual leave in exchange for financial compensation. The FISEMARE observes a significant decrease in practices of "buying back holidays" in recent years, but indicates that the limitation to three years of the right to take annual holidays is problematic. **The Committee requests the**

Government to reply to these observations and to provide details on the number of workers involved and the length of the annual leave period which is exchanged for financial compensation.

The Committee is raising other matters in a request addressed directly to the Government.

Malta

Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1988)

Previous comment

Article 2 of the Convention. Limits to hours of work. Further to its previous comment on the opt-out clause contained in section 20 of the Organisation of Working Time Regulations, 2004, the Committee notes that the Government's report does not contain any new information in this regard. The Committee recalls that this section of the Regulations which provides that the statutory limits on working time shall not apply in relation to a worker who has agreed with his employer in writing that these limits should not apply, allows for exceptions to the standards of 8 hours a day and 48 hours a week under conditions that go far beyond those prescribed by the Convention. **It therefore requests the Government to take the necessary measures to bring section 20 of the Organisation of Working Time Regulations into full conformity with the requirements of the Convention.**

Articles 2(b) and (c), 4, and 5. Variable distribution of working hours. The Committee notes that the Government does not communicate any new information regarding its previous comments on section 7 of the Organization of Working Time Regulations, 2004, which foresees the averaging of working hours over reference periods going up to 52 weeks, with no specified exceptional circumstances for resorting to it. The Committee recalls that the averaging of hours of work in general is authorized in the Convention over a reference period of one week, provided that a daily limit of nine hours is respected (*Article 2(b)*); in all the other cases in which the averaging of working hours is allowed over reference periods longer than a week, the circumstances are clearly specified, as follows: (i) in case of shift work, it shall be permissible to employ persons in excess of 8 hours in any one day and 48 hours in any one week, if the average number of hours over a period of three weeks or less does not exceed 8 per day and 48 per week (*Article 2(c)*); (ii) in those processes which are required by reason of the nature of the process to be carried on continuously by a succession of shifts, the daily and weekly limit of hours of work may be exceeded subject to the condition that the working hours shall not exceed 56 in the week on the average (*Article 4*); and (iii) in exceptional cases where it is recognized that the limits of 8 hours a day and 48 hours a week cannot be applied, but only in such cases, agreements between workers' and employers' organisations concerning the daily limit of work over a longer period of time may be given the force of regulations, provided that the average number of hours worked per week, over the number of weeks covered by any such agreement, shall not exceed 48 (*Article 5*). **Recalling that calculating hours of work as an average over a reference period of up to one year allows for too many exceptions to normal hours of work and can result in highly variable working hours over long periods, long working days and the absence of compensation (2018 General Survey on working time instruments, paragraph 68), the Committee requests the Government to take the necessary measures to bring section 7 of the Organization of Working Time Regulations, 2004 in conformity with the requirements of the Convention.**

The Committee raises other questions in a request addressed directly to the Government.

Myanmar

Holidays with Pay Convention, 1936 (No. 52) (ratification: 1954)

Previous comment

Article 2(1) and (4) of the Convention. Postponement and division of annual holidays with pay. In its previous comments, the Committee requested the Government to take measures for the timely revision of section 4(3) of the Leave and Holidays Act, which allows for the accumulation of holidays over a period of three years. The Committee notes that the Government's report does not contain any information in this respect. ***In this context, the Committee once more requests the Government to take the necessary measures to ensure that the minimum annual holiday with pay prescribed by Article 2(1) of the Convention is not divided or postponed so that all workers effectively enjoy at least six uninterrupted days of holidays with pay per year.***

Article 2(2). Annual holiday with pay for persons under 16 years of age. In previous comments, the Committee requested the Government to take the necessary measures to bring in line with the Convention section 4(1)(a) of Leave and Holidays Act 1951 which grants ten consecutive days of holidays with pay to employees aged 15 years, while *Article 2(2)* of the Convention requires 12 days for workers under 16 years of age. The Committee notes that the Government does not provide any relevant information in this respect. ***The Committee requests the Government to take the necessary measures to ensure that workers aged 15 years enjoy at least 12 consecutive days of annual holidays with pay as required by the Convention.***

Article 2(3). Public and customary holidays and interruptions of attendance at work due to sickness. The Committee notes that section 3(2) of the Leave and Holidays Act prescribes that if any public holiday falls on any weekly day of rest or on any other holiday, an alternative holiday shall not be allowed. The Committee observes that this provision is not in conformity with *Article 2(3)(a)* of the Convention which prescribes that public and customary holidays shall not be included in the annual holiday with pay period. Moreover, the Committee notes that no provision of the Leave and Holiday Act seems to provide that interruptions of attendance at work due to sickness shall not be included in the annual holiday with pay, as required by *Article 2(3)(b)* of the Convention. ***The Committee requests the Government to take the necessary measures to ensure that public and customary holidays and interruptions of attendance at work due to sickness are not counted as part of the annual holidays with pay period as required by the Convention.***

Article 2(5). Increase of the duration of the annual holiday with pay with the length of service. The Committee notes that no provision of the Leave and Holidays Act seems to prescribe the increase of the duration of the annual holiday with pay with the length of service as required by *Article 2(5)* of the Convention. ***The Committee requests the Government to take the necessary measures to give effect to this provision of the Convention.***

New Zealand

Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1938)

Forty-Hour Week Convention, 1935 (No. 47) (ratification: 1938)

Previous comment on Convention No. 14

Previous comment on Convention No. 47

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on working time, the Committee considers it appropriate to examine Conventions Nos 14 (weekly rest) and 47 (40-hour week) together.

The Committee notes the observations of Business New Zealand and the New Zealand Council of Trade Unions (NZCTU) on the application of Conventions Nos 14 and 47, communicated with the Government's report.

A. Hours of work

Article 1 of Convention No. 47. Forty-hour week. The Committee notes that section 11B(2) of the Minimum Wage Act 1983, as amended up to 2021, prescribes that the maximum number of hours (excluding overtime) to be worked by any worker in any week may be fixed at a number greater than 40 if the parties to the individual agreement agree. The Committee observes that no weekly or daily limits to the working hours seem to be provided for in the above-mentioned Act for the cases contemplated in section 11B(2). Moreover, the Committee notes that, according to the statistics included in the report of the Government, on average: (i) for the year starting in March 2020, 11.70 per cent of people employed worked between 41 and 49 hours per week, 9.9 per cent worked between 50 and 59 hours per week and 6.20 worked more than 60 hours a week; and (ii) for the year starting in March 2021, 11.5 per cent of employed people worked between 41 and 49 hours a week, and 15.1 per cent worked between 50 and 59 hours a week, with no data on workers working more than 60 hours a week. The Committee further notes the observations of the NZCTU, reiterating its concerns that the national legislation does not provide for effective protection of the 40-hour week principle as enshrined in the Convention, and indicating that this situation is exacerbated by the relative weakness of New Zealand's institutions and mechanisms for collective bargaining. The Committee recalls that provisions such as section 11B(2) of the Minimum Wage Act 1983 authorize practices that may lead to unreasonably long hours of work, in direct contradiction to the principle of progressive reduction of hours of work. **Therefore the Committee requests the Government to take the necessary measures as may be judged appropriate, such as the fixing of reasonable limits to the extension by individual agreement of the 40-hour week, to secure the full application, in both law and practice, of the principle of a 40-hour week provided for by the Convention. The Committee also requests the Government to provide information on the progress made in this respect.**

B. Weekly rest

Article 2 of Convention No. 14. Right to 24-hour weekly rest. Following its previous comments on the absence of national legislative provisions expressly setting out a weekly rest of 24 hours, the Committee notes the Government's indication in its report that no legislative measures affecting the application of the Convention have been taken since then. In this respect, the Committee notes the observations of the NZCTU urging the Government to initiate a consultation process with social partners on how to bring laws and regulations into compliance with the Convention. **Accordingly, the Committee requests the Government to take the necessary measures without delay to ensure that, in practice as well as in law, all workers employed in any industrial undertaking, public or private, or in any branch thereof, effectively enjoy an uninterrupted weekly rest period comprising not less than 24 hours in the course of each period of seven days, as required under the Convention.**

Nicaragua

Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1934)

Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1934)

[Previous comment on Convention No. 1](#)

[Previous comment on Convention No. 30](#)

In order to provide an overview of the issues relating to the application of the ratified Conventions on working time, the Committee considers it appropriate to examine Conventions Nos 1 (hours of work in industry) and 30 (hours of work in commerce and offices) in the same comment.

Articles 3 and 6(1)(b) of Convention No. 1 and Article 7(2) of Convention No. 30. Exceptions to the limit on hours of work. In relation to its previous comment, the Committee notes that the Government does not provide any information in its report on section 57 of the Labour Code, which provides that work done outside normal working hours constitutes additional hours (overtime) but work done to rectify errors that can be attributed to the worker does not. The Committee recalls that the Conventions in question only allow exceptions to the limit on working hours: in case of accident, actual or threatened, force majeure, or urgent work to machinery or plant; in order to prevent the loss of perishable goods or avoid endangering the technical results of the work; in order to allow for special work such as stocktaking and the preparation of balance sheets, settlement days, liquidations, and the balancing and closing of accounts; and in order to deal with cases of abnormal pressure of work. **The Committee therefore urges the Government to take the necessary steps to ensure that the above-mentioned section is amended, in order to guarantee that the national legislation only allows the limits on daily and weekly hours of work to be exceeded in the circumstances specified in the Conventions, and to provide information on the measures taken in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 1** (Chile, Comoros, Czechia, Djibouti, Equatorial Guinea, Lebanon, Libya, Malta, Myanmar, Nicaragua); **Convention No. 14** (Central African Republic, Chad, Chile, China: Hong Kong Special Administrative Region, Côte d'Ivoire, Czechia, Democratic Republic of the Congo, Denmark: Faroe Islands, Djibouti, Ethiopia, Equatorial Guinea, Libya, Lithuania, Myanmar, Netherlands: Caribbean Part of the Netherlands, Netherlands: Sint Maarten); **Convention No. 30** (Chile, Equatorial Guinea, Lebanon, Nicaragua); **Convention No. 47** (Finland); **Convention No. 52** (Central African Republic, Comoros, Denmark: Faroe Islands, Djibouti, Lebanon, Libya, New Zealand); **Convention No. 89** (Comoros, Costa Rica, Democratic Republic of the Congo, Djibouti, Lebanon, Libya); **Convention No. 101** (Central African Republic, Djibouti, Ecuador, Netherlands: Caribbean Part of the Netherlands, New Zealand); **Convention No. 106** (Cyprus, Denmark: Faroe Islands, Djibouti, Ethiopia, Lebanon, Netherlands: Caribbean Part of the Netherlands, Netherlands: Sint Maarten, North Macedonia); **Convention No. 132** (Cameroon, Chad, Finland, Madagascar); **Convention No. 153** (Ecuador); **Convention No. 171** (Côte d'Ivoire, Czechia, Madagascar); **Convention No. 175** (Finland).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 14** (Cameroon, Denmark: Greenland, Finland, France: French Polynesia, Malta, Nepal, Niger); **Convention No. 30** (Morocco); **Convention No. 89** (Cameroon, France: French Polynesia); **Convention No. 101** (Netherlands: Sint Maarten) **Convention No. 106** (Cameroon, Denmark: Greenland, France: French Polynesia, Malta); **Convention No. 132** (Malta); **Convention No. 171** (Cyprus).

Occupational safety and health

Belize

Radiation Protection Convention, 1960 (No. 115) (ratification: 1983)

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1999)

The Committee notes that the Government's reports have not been received. It is therefore bound to repeat its previous comments.

The Committee notes with **deep concern** that the Government's reports, due since 2015, have not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Conventions on the basis of the information at its disposal.

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on occupational safety and health (OSH), the Committee considers it appropriate to examine Conventions Nos 115 (radiation protection) and 155 (OSH) together.

A. General provisions

Occupational Safety and Health Convention, 1981 (No. 155)

Articles 4, 7 and 8 of the Convention. Formulation and review of the national OSH policy. Legislation. The Committee previously noted the Government's reiterated reference to an OSH Bill developed in 2003. The Committee observes that a draft OSH Bill was introduced in 2014, but has not been adopted. In its previous comments, the Committee also noted that the National OSH Policy was approved in 2004, which set up both general and specific objectives, including the principle of prevention and the promotion and maintenance of OSH standards at all workplaces. However, the Committee notes that the 2004 Policy has not been reviewed or updated. **The Committee requests the Government to provide information on the status of the OSH Bill, and on any new legislation adopted which relates to the application of the Convention. The Committee also requests the Government to indicate the measures taken for the review and update of the 2004 National OSH Policy, including any consultation held with social partners. Furthermore, the Committee requests the Government to provide information on any measures taken or envisaged to review the situation of OSH and the working environment in the country, either overall or in respect of particular areas, with a view to identifying major problems and effective methods for dealing with them.**

Article 5. Main spheres of action affecting OSH and the work environment. The Committee notes that the 2004 National OSH Policy provides for training and education in the field of OSH and defines the role and responsibilities of different stakeholders in this regard, putting emphasis on communication and cooperation (in accordance with *Article 5(c)* and *(d)*). The Committee notes, however, that the 2004 National OSH Policy does not address other elements required by *Article 5* of the Convention, including the design, testing, choice, substitution, installation, arrangement, use and maintenance of the material elements of work (*Article 5(a)*) and the relationships between the material elements of work and the persons who carry out or supervise the work (*Article 5(b)*). **The Committee requests the Government to provide information on any measures taken or envisaged to give effect to *Article 5(a)* and *(b)* of the Convention.**

Article 11(c) and (e). Notification of occupational accidents and diseases. Production and publication of annual statistics. The Committee notes that the Social Security Board publishes annual statistical reports, including information on occupational injuries due to accidents. The Social Security's Statistical Report of 2019 contains information on the number, nature and causes of occupational injuries for 2015–19, and the sectors in which they occurred. **The Committee requests the Government to provide information on any applicable procedures regarding the notification by employers of occupational accidents and diseases to the competent authority. It also requests the Government to indicate whether statistics on occupational diseases are collected and published, in addition to those on occupational accidents.**

Article 11(f). Introduction of systems to examine chemical, physical and biological agents in respect of the risk to the health of workers. The Committee previously noted that, in November 2010, the Government launched the Strategic Approach to International Chemicals Management (SAICM), entailing the

implementation of a chemicals management system in two phases through a multi-sectoral approach. Phase II of this project was launched in June 2012, aiming at the development of a legal and institutional framework for the management of chemicals, including market surveillance measures. ***The Committee requests the Government to provide information on any developments in chemical management, including legal and institutional initiatives taken in this regard. It also requests the Government to indicate whether there are any similar management frameworks regarding physical and biological agents.***

Article 12. Obligations of persons who design, manufacture, import, provide or transfer machinery, equipment or substances for occupational use. The Committee requests the Government to provide information on any measures taken or envisaged, in law and in practice, to ensure the responsibilities of those who design, manufacture, import, provide or transfer machinery, equipment or substances for occupational use with regard to the safety and security of concerned persons, as required by Article 12 of the Convention.

Article 17. Collaboration where two or more undertakings are engaged in activities simultaneously at one workplace. The Committee requests the Government to provide information on any measures taken to ensure collaboration in applying the requirements of the Convention, whenever two or more undertakings are engaged in activities simultaneously at one workplace.

Article 18. Emergencies and first aid. The Committee notes that both the Factory Act (section 12(1)(c)) and the Labour Act (section 155(b)) provide for the development of regulations on the provision of first-aid equipment. The Committee requests the Government to indicate whether there are any laws or regulations adopted (including under the Factory Act or the Labour Act) to provide for measures to be taken in case of emergencies and accidents, including adequate first-aid arrangements.

Article 21. Expenditure on OSH measures. The Committee requests the Government to provide information on any measures taken to ensure that OSH measures do not involve any expenditure for workers.

B. Protection against specific risks

Radiation Protection Convention, 1960 (No. 115)

*Article 3(1) of the Convention. Protection measures. The Committee notes that, according to section 94 of the Labour Act, the Minister of Labour may adopt regulations regarding any operation involving the exposure of workers to ionizing radiations, to: (i) prohibit the employment of, or modify or limit the hours of employment of all persons or any class of persons in connection with any such operations; or (ii) prohibit, limit or control the use of any material or process in connection with any such operation, and may impose duties on owners, employers, employed persons and other persons, as well as occupiers. In addition, while reiterating its concern at the absence of a government report, the Committee notes with **interest** the adoption of the Radiation Safety and Security Act in October 2020, following technical assistance from the International Agency for Atomic Energy (IAEA). It notes that the Radiation Safety and Security Act establishes the Office of Radiation Safety and Security within the Ministry responsible for the environment (the Office). Pursuant to section 42 of this Act, this Office shall prescribe requirements for radiation protection to be met before any activity or practice can be licensed, including all steps that shall be taken by the licensee for the protection and safety of workers by keeping doses below the relevant threshold. ***The Committee requests the Government to indicate whether any regulations have been adopted by the Minister of Labour pursuant to section 94 of the Labour Act. It also requests the Government to provide detailed information on the requirements prescribed for licensees under section 42 of the Radiation Safety and Security Act, regarding the protection of workers against ionizing radiation.****

*Article 3(2). Data collection. The Committee notes that, according to section 9(1)(l), (m) and (n) of the Radiation Safety and Security Act, the Office shall establish and maintain a national register of radiation sources, persons licenced to carry out activities or practices under the Act, as well as other registers as necessary. ***The Committee requests the Government to provide information on the implementation in practice of these provisions, such as the information required for the purpose of the register and the method of data collection.****

Articles 6 and 8. Determination and review of maximum permissible doses. The Committee notes that, according to section 41(2) of the Radiation Safety and Security Act, the Office shall prescribe dose limits for persons that may not be exceeded in conducting activities or practices involving, among others, the

production or use of radiation sources. Section 41(3) further provides that any dose limits prescribed shall take into account the recommendations of the IAEA and the International Commission on Radiation Protection. The Committee observes that there do not seem to be any dose limits prescribed by the Office following the adoption of the Radiation Safety and Security Act in October 2020. **The Committee requests the Government to indicate the measures taken to ensure that the maximum permissible doses or amounts are determined without delay. It also requests the Government to provide information on any mechanism ensuring the review of such dose limits.**

Article 9. Warning of the presence of hazards from ionizing radiations and instructions for workers directly engaged in radiation work. **The Committee requests the Government to provide information on any measures taken to ensure that: (i) appropriate warnings are used to indicate the presence of hazards from ionizing radiations; and (ii) adequate instructions are provided to all workers directly engaged in radiation work before and during such employment.**

Article 12. Medical examination. The Committee notes that, according to the 2004 National OSH Policy, the employer is required to make provisions for pre-employment, pre-placement and periodic medical examinations for the persons they employ, while the Ministry of Health shall work towards the establishment of an occupational health unit, which will, among other functions, provide medical assistance in this regard. **The Committee requests the Government to provide further information on the medical examinations prescribed and provided in practice to workers directly engaged in radiation work, including examinations prior to or shortly after taking up such work, and their subsequent examinations at appropriate intervals.**

Article 13. Measures in case of irradiation or radioactive contamination. The Committee notes that Part VIII of the Radiation Safety and Security Act provides for emergency preparedness and response. However, the Committee notes that it does not contain any provisions addressing the protection of workers as required by Article 13(a), (c) and (d) of the Convention. **The Committee requests the Government to provide information on any measures taken or envisaged, in law or in practice, in case of exposure of workers to ionizing radiations with regard to the protection of workers as required by the Convention, including appropriate medical examination of affected workers, examination of the conditions in which workers' duties are performed and any necessary remedial action.**

Article 14. Employment involving exposure to ionizing radiation contrary to medical advice. **The Committee requests the Government to provide information on the measures taken to ensure that workers are not employed or engaged in work liable to expose them to ionizing radiations contrary to qualified medical advice, including measures for the provision of alternative employment.**

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Cabo Verde

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2000)

Previous comment

Article 11(e) of the Convention. Annual publication of information on measures taken in pursuance of the national policy and application of the Convention in practice. The Committee notes the detailed information included with the Government's report on occupational accidents between 2017 and 2021. The Committee notes with **concern** the recent increase in the number of occupational accidents: from 238 in 2019 (of which 5 were fatal) to 782 in 2020 (of which 9 were fatal) and 1,112 in 2021 (of which 3 were fatal). The Committee also notes that, as the Tripartite OSH Commission is not functioning, the Commission has not been able to make public the results obtained with regard to the National OSH Policy. The Committee also notes that, while hospitals are required to collect and report to the General Labour Inspectorate data on the diagnosis of occupational diseases, the reports of the labour inspection offices do not contain statistics on this subject. **Noting the increase in the number of occupational accidents, the Committee urges the Government to take all necessary steps to strengthen preventive OSH measures and to provide information on the reasons for this increase. In addition, it requests the**

Government to provide information on any measures taken or envisaged to ensure the annual publication of information on the measures taken under the National OSH Policy. With regard to occupational diseases, the Committee refers to its comment in relation to the Labour Inspection Convention, 1947 (No. 81), on the elements to be included in the reports of the labour inspectorate.

Articles 13 and 19(f). Protection of workers who have removed themselves from situations presenting an imminent and serious danger. In response to the Committee's previous comment, the Government indicates that Decree-Laws Nos 55/99 and 64/2010 set out the OSH obligations of the different stakeholders and that the General Labour Inspectorate, which has carried out several awareness-raising activities on OSH, is obliged to verify compliance with these provisions. In addition, the Committee notes the Government's indication that the labour inspection services have the power to suspend the activities of any enterprise that endangers the safety and health of workers and reserve the right to impose a fine. The Committee notes that while section 241 of the Labour Code provides that workers may terminate the employment relationship in the event of a serious threat to their health or physical integrity and receive compensation, there is no provision for the protection of workers who have withdrawn from a work situation which they had reasonable cause to believe presented an imminent and serious danger to their life or health, as required by *Articles 13 and 19(f)* of the Convention. **The Committee reiterates its request to the Government to give effect to the above-mentioned Articles of the Convention and to provide information on any progress made in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

Cameroon

Asbestos Convention, 1986 (No. 162) (ratification: 1989)

Previous comment

Articles 6(3), 9 and 12 to 22 of the Convention. Application of the Convention in law and in practice. Further to its previous comments, the Committee notes the absence of information on specific legal or practical measures aimed at the prevention and control of health hazards related to asbestos and at giving effect to a certain number of Articles of the Convention, that is, *Articles 6(3), 9, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22*. **The Committee urges the Government to take steps to adopt specific laws and regulations expressly aimed at the prevention and control of, and protection of workers against, health hazards due to occupational exposure to asbestos. It requests the Government to provide information on the steps taken in this connection, in particular with respect to the application of Articles 6(3) (preparation of procedures for dealing with emergency situations), 9 (adequate work practices, special rules and procedures), 12 (spraying of asbestos), 13 (notifying the competent authority of certain types of work involving exposure to asbestos), 14 (responsibility of producers and suppliers of asbestos and of makers and suppliers of products containing asbestos), 15 (limits for the exposure of workers to asbestos), 16 (practical measures for the prevention and control of the exposure of workers to asbestos), 17 (demolition work), 18 (special protective clothing, personal protective equipment and washing facilities), 19 (responsibility of the employer for the disposal of waste containing asbestos), 20 (workplace monitoring), 21 (monitoring of workers' health) and 22 (measures for education and training).**

[The Government is asked to reply in full to the present comments in 2025.]

Central African Republic

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2006)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 4, 5 and 8 of the Convention. National policy. Spheres of action. Further to its previous comments, the Committee notes that the Government reiterates in its report that the Directorate of Occupational Medicine has launched a project on the national policy on occupational health and safety (OSH). **While taking due note of this information, the Committee requests the Government to take the necessary measures to formulate, implement and periodically review a coherent national policy on OSH and the working environment, in consultation with the most representative organizations of employers and workers, and to take such steps as may be necessary, by laws or regulations, to give effect to this policy, in accordance with Articles 4, 5 and 8 of the Convention.**

Article 7. Periodic review of the situation regarding OSH and the working environment. Further to its previous comments, the Committee notes that the Government reiterates that the situation regarding OSH and the working environment is not reviewed neither systematically nor at appropriate intervals, due to a lack of material, human and financial resources. **While noting the Government's indications concerning the lack of resources, the Committee requests the Government to take the necessary measures to ensure that the situation regarding OSH and the working environment is subject to an overall review at appropriate intervals.**

Articles 13 and 19(f). Situation of imminent and serious danger to life or health. Further to its previous comments, the Committee notes that the Government's report does not contain information on: (a) the measures taken or envisaged to ensure that any worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences of such an action, in accordance with *Article 13* of the Convention; and (b) the arrangements that have been made to ensure that an employer cannot require workers to return to a work situation where there is continuing imminent and serious danger to life or health, in accordance with *Article 19(f)* of the Convention. **The Committee requests the Government to take the necessary measures to give effect to Articles 13 and 19(f) of the Convention.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

China

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2007)

Safety and Health in Construction Convention, 1988 (No. 167) (ratification: 2002)

Previous comment

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on occupational safety and health (OSH), the Committee considers it appropriate to examine Conventions Nos 155 (OSH) and 167 (OSH in construction) together.

Occupational Safety and Health Convention, 1981 (No. 155)

Article 11(c) and (e) of the Convention. Production of annual statistics on occupational accidents and diseases and application of the Convention in practice. Following its previous comment, the Committee notes the Government's response in its report that 17,064 cases of occupational disease were reported in 2020, including 14,408 cases of pneumoconiosis, while 15,407 cases were reported in 2021, including 11,809 cases of pneumoconiosis. Moreover, 29,519 fatal occupational accidents were reported in 2019, while 27,412 such accidents were reported in 2020. The Committee also notes that, according to the 14th Five-Year National Plan for Occupational Safety (2021–2025), from 2015 to 2020 there was a decrease in all types of accidents by 43.3 per cent, in large accidents by 36.1 per cent and in very serious accidents by 57.9 per cent respectively, and the number of deaths decreased by 38.8 per cent. The Government further indicates that targeted measures were undertaken to control and eliminate occupational diseases at the source, including the implementation of the pneumoconiosis prevention

and control campaign in key industries, such as construction, metallurgy, coal mines and non-coal mines. Awareness-raising activities continue to be organized, aimed at disseminating relevant policies and laws, scientific knowledge, and good practices. ***Taking due note of the continued decrease in the number of occupational accidents and cases of occupational disease, the Committee requests the Government to continue its efforts with regard to the prevention of such accidents and diseases, and to continue to provide information on specific preventive measures taken in this regard, including those in the context of implementing the 14th Five-Year National Plan for Occupational Safety, and the impact of such measures. The Committee also requests the Government to continue to provide detailed statistics on occupational accidents and diseases at the national level, indicating the causes and consequences.***

Safety and Health in Construction Convention, 1988 (No. 167)

Article 8 of the Convention. Cooperation between two or more employers undertaking activities simultaneously at one construction site. Following its previous comment, the Committee notes the Government's indication in its report that accident prevention was a priority in the 14th Five-Year National Plan for Occupational Safety. Measures envisaged include enhancing the management of recruitment and qualification of subcontractors, as well as strengthening the enforcement of related legislation and regulations. The Government also refers to the Notice on further strengthening the safety management of construction projects with higher risk issued by the Ministry of Housing and Urban-Rural Development (MoHURD) in 2017, which stresses that the main contractor is responsible for the safety of the entire project, while subcontractors are responsible for the safety within the scope of the subcontracted parts, as provided for by section 24 of the Administrative Regulations on Work Safety in Construction Projects. The Committee further notes that, according to the 2019 Circular on Safety Accidents in Housing and Municipal Engineering, in terms of serious accidents, 82.61 per cent were related to large construction projects with multiple parts and operators, particularly in earthwork and foundation excavation, formwork support systems and construction crane machinery. ***The Committee requests the Government to pursue its efforts to ensure the implementation of prescribed safety and health measures under the responsibility of the principal contractor whenever two or more employers undertake activities simultaneously at one construction site, particularly with respect to construction sites with several tiers of subcontracting. Noting that a large proportion of accidents occurred in construction projects with multiple parts and operators, the Committee once again requests the Government to provide information on the enforcement of section 24 of the Administrative Regulations on Work Safety in Construction Projects in practice, including inspections undertaken, violations detected, and penalties applied for non-compliance.***

Article 18(1). Work at heights including roof work. The Committee notes the Government's reference to the Circular on the Governance Action of Occupational Safety in Construction issued by the MoHURD in March 2022, which further specifies the requirements of safety measures for work at heights, including the identification of risks and prevention actions, as well as the use of both collective and individual protection equipment. Moreover, the MoHURD updated the Criteria for Determining Major Hazards and Accident Risks in Construction in April 2022, which identifies some types of work at heights as a major accident risk. The Government also indicates that the number of deaths due to falls from height in construction continues to decrease (441 in 2019, 428 in 2020 and 413 in 2021). The Committee notes, however, that according to the 2019 Circular on Safety Accidents in Housing and Municipal Engineering, falls from heights remained the main cause of accidents in construction, representing 53.69 per cent of total accidents in 2019, increased from 52.2 per cent in 2018. The Committee also notes that there was only one accident due to fall from height falling into the categories of large, serious and very serious accidents (defined as accidents causing more than three deaths or with a particularly significant economic impact). ***The Committee urges the Government to pursue its efforts to enforce safety measures for work at heights and to promote the use of safety equipment at all construction***

sites. It also requests the Government to continue to provide information on the enforcement measures implemented in this regard (including the number and nature of violations detected and penalties applied) and the number of occupational accidents reported due to falls from heights.

Article 35. Effective enforcement of the provisions of the Convention and application in practice. The Committee notes the information provided by the Government, in response to its previous request, on the measures taken by the MoHURD to improve the implementation of the Convention, including: (i) the elaboration of guidelines for workplan design in construction projects with higher risks consisting of multiple components and operators in 2021; (ii) the development of a list of work process and techniques, equipment and materials to be eliminated in building construction and infrastructure projects in 2021; and (iii) the implementation of targeted measures to strengthen occupational safety in housing and municipal engineering projects. The Government also indicates that 1,530 cases of occupational disease were reported in the construction industry from 2019 – 2021, mostly related to civil engineering projects (1,256 cases). Moreover, the most prevalent occupational disease remains pneumoconiosis (1,257 cases). The Committee further notes with **concern** that, according to the 2019 Notification of Safety Accidents in Housing and Municipal Engineering, in 2019, there were 773 work safety accidents with 904 deaths, an increase from 2018 by 39 cases and 64 persons respectively. About 80 per cent of the accidents could be attributed to violations of OSH-related rules and regulations when performing work, 60 per cent were related to violations of statutory construction procedures, while 40 per cent were due to neglect of duties by key personnel responsible for OSH. **The Committee urges the Government to reinforce its efforts to ensure the application of the Convention in practice, and to continue to provide information on the concrete steps taken to reduce the number of occupational accidents in the construction sector. It also urges the Government to continue to take measures to ensure the effective enforcement of the Convention through the provision of appropriate inspection services in the sector, as well as appropriate penalties and corrective measures. Lastly, the Committee requests the Government to continue to provide detailed information on the application of the Convention in practice.**

The Committee is raising other matters in a request addressed directly to the Government.

Colombia

Asbestos Convention, 1986 (No. 162) (ratification: 2001)

Safety and Health in Construction Convention, 1988 (No. 167) (ratification: 1994)

Chemicals Convention, 1990 (No. 170) (ratification: 1994)

Prevention of Major Industrial Accidents Convention, 1993 (No. 174) (ratification: 1997)

[Previous comment on Conventions Nos 162, 170 and 174](#)

Previous comment on Convention No. 167: [direct request](#)

In order to provide a comprehensive view of the issues relating to the application of ratified occupational safety and health (OSH) Conventions, the Committee considers it appropriate to examine the application of Conventions Nos 162 (asbestos), 167 (OSH in construction), 170 (chemicals) and 174 (major industrial accidents) together in a single comment.

The Committee notes the joint observations of the International Organisation of Employers (IOE) and the National Employers Association of Colombia (ANDI), received on 31 August 2018, on the application of Convention No. 162, as well as the Government's comments on these observations, received on 20 November 2018.

A. Protection against specific risks

1. Asbestos Convention, 1986 (No. 162)

Legislation. The Committee notes with **satisfaction** the adoption of Act No. 1968 of 2019, which prohibits the use of asbestos on the national territory as from 1 January 2021 and establishes guarantees for the health protection of nationals of Colombia.

Articles 3(2) and 14 of the Convention. Periodic review of national laws and regulations. Labelling of containers and products. With reference to its previous comments, the Committee notes with **interest** the adoption of Decision No. 534 of 2020 issuing specific measures respecting the labelling of products containing asbestos, giving effect to a judicial ruling of 2020, which ordered the Ministry of Labour to issue regulations on this matter. The Committee notes that the Decision: (i) provides that all products manufactured, put up for sale, imported, exported or distributed which contain any type of asbestos in any proportion shall be marked with a visible label with the wording “warning this product contains asbestos”, without prejudice to the labelling and information requirements set out in other relevant standards (section 3); and (ii) contains specific provisions requiring that the label is visible immediately, truthful and adequate (section 4). The Committee notes this information, which responds to its previous request.

Articles 4 and 17. Consultations with employers’ and workers’ organizations. Demolition and removal. With reference to its previous comments, the Committee notes that Act No. 1968 of 2019 provides for: (i) the formulation of a public policy for the replacement of previously installed asbestos within a period of five years of its promulgation (section 3); and (ii) the creation of a National Commission for the Replacement of Asbestos, which the Committee observes includes representatives of five ministries and other actors, but does not appear to include representatives of the social partners among its members (section 6). The Government specifies that the policy will be focused on promoting the overall management of installed asbestos products and their waste, and the strengthening of technical capacities, information management, communication and awareness-raising of strategic actors, based on the implementation of a plan of action for the period 2022–30.

The Committee also notes the Government’s indication that the public policy for the replacement of asbestos is being drawn up by the chemical safety working group of the National Technical Intersectoral Commission for Environmental Health (CONASA), under the leadership of the Ministry of the Environment and Sustainable Development and with the participation of the Ministry of Labour, other Ministries, Government bodies, various actors from the private sector, academics and social organizations. The Government emphasizes that in June 2021 consultations were held and the progress made in drawing up the policy was presented to the various actors, including the National Association of Public Service and Communication Enterprises of Colombia (ANDESCO), the Colombian Fibre Association (ASCOLFIBRAS) and the Colombia Free from Asbestos Foundation (FUNDCLAS). The Committee observes that it appears that workers’ organizations have not been participating in the process of drawing up the public policy for the replacement of asbestos.

The Committee also notes that the ANDI and the IOE indicate in their observations that the materials present in constructions are fibre-cement materials in which the fibres are coated in cement as a binder and there is no indication that friable asbestos has been used in construction in Colombia. With reference to these observations, the Government reiterates that, due to the environmental and geographical conditions in Colombia, asbestos and friable insulation materials containing asbestos have not been used in construction. **The Committee requests the Government to adopt the necessary measures to ensure that, within the framework of the public policy for the replacement of installed asbestos it is guaranteed that: (i) both the demolition of installations or structures containing friable asbestos insulation materials, and the removal of asbestos from buildings or structures in which asbestos is liable to become airborne, may be undertaken only by employers or contractors who are**

recognized by the competent authority as qualified to carry out such work in accordance with the provisions of the Convention and who have been empowered to undertake such work (Article 17(1) of the Convention); (ii) before starting demolition work, the employer or contractor shall be required to draw up a work plan specifying the measures to be taken, including measures to provide all necessary protection to the workers, limit the release of asbestos dust into the air and provide for the disposal of waste containing asbestos (Article 17(2) of the Convention); and (iii) the workers or their representatives are consulted on the work plan referred to above (Article 17(3) of the Convention). The Committee requests the Government to provide information on the results of these measures.

The Committee also requests the Government to provide information on: (i) the process of the preparation and implementation of the public policy for the replacement of installed asbestos; and (ii) the functioning and activities of the National Commission for the Replacement of Asbestos. Moreover, while noting the Government's indication that it plans to strengthen consultation mechanisms with the most representative organizations of employers and workers with a view to giving effect to the provisions of Act No. 1968 of 2019, the Committee requests it to specify whether the most representative organizations of employers and workers concerned have been consulted in relation to the public policy for the replacement of installed asbestos, including within the framework of the activities of the National Commission for the Replacement of Asbestos.

2. Chemicals Convention, 1990 (No. 170)

Legislation. The Committee notes with **satisfaction** the promulgation of Decree No. 1496 of 2018 adopting the United Nations Globally Harmonized System of Classification and Labelling of Chemicals (GHS). The Government indicates that the draft text of the Decree was circulated in the National OSH Committee, which is a technical body composed of representatives of workers, employers and Government bodies.

Articles 9, 10 and 11 of the Convention. Responsibilities of suppliers. Responsibilities of employers for the identification and transfer of chemicals. With reference to its previous comments, the Committee notes that Decree No. 1496 of 2018 (sections 8, 9, 15 and 17), Decree No. 1076 of 2015 issuing the consolidated regulations for the environment and sustainable development sector (sections 2.2.7B.1.3.2(2) and 2.2.7B.1.2.6) and Decision No. 773 of 2021 determining the action to be taken by employers for the application of the GHS in the workplace (sections 5, 6 and 21(2), (4), (5) and (9)) contain provisions which give effect to these Articles of the Convention.

Article 18(1) and (2). Right of workers to remove themselves from danger and to be protected against undue consequences. **The Committee once again urges the Government to adopt the necessary measures to ensure that workers have the right to remove themselves from danger resulting from the use of chemicals when they have reasonable justification to believe there is an imminent and serious risk to their safety or health and to be protected against undue consequences for doing so, in accordance with Article 18(1) and (2) of the Convention.**

3. Prevention of Major Industrial Accidents Convention, 1993 (No. 174)

Article 4 of the Convention. National policy and consultation of employers' and workers' organizations. With reference to its previous comments, the Committee notes with **satisfaction** the adoption of Decree No. 1347 of 2021 amending Decree No. 1072 of 2015 issuing consolidated labour regulations, with a view to establishing provisions relating to the Programme for the Prevention of Major Accidents (PPAM). The Committee notes that, under the terms of sections 2.2.4.12.1 and 2.2.4.12.6 of the Decree, the PPAM includes all the comprehensive measures, procedures and interventions undertaken to increase the levels of protection of workers, the population and the environment through the management of the risk of major accidents in classified installations. The Committee also notes the Government's indication that the draft text of the Decree was referred to the National OSH Committee in order to receive its

comments. The Committee further notes that sections 2.2.4.12.21 to 2.2.4.12.23 provide for the creation, composition and functions of an interinstitutional technical working group in support of the PPAM composed permanently of representatives of various Government bodies, the responsibilities of which include the preparation of the necessary technical measures for the implementation of the PPAM. In this regard, the Committee recalls that *Article 4* of the Convention provides that, in consultation with the most representative organizations of employers and workers, and in light of national conditions and practices, a coherent national policy concerning the protection of workers, the public and the environment against the risk of major accidents shall be implemented and periodically reviewed. ***The Committee therefore requests the Government to indicate the measures adopted for the implementation and periodic review of the PPAM in consultation with the representative organizations of employers and workers.***

The Committee also notes the Government's indication concerning the preparation of draft decisions to regulate specific aspects of Decree No. 1347 of 2021, including: the design, implementation and monitoring of the management system for the prevention of major accidents; the identification of hazards, analysis, evaluation and action to deal with risks of major accidents, and the notification, reporting and investigation of major accidents. ***The Committee encourages the Government, during the process of the adoption of any supplementary regulations under Decree No. 1347 of 2021, to take into account the matters addressed in its direct request on Convention No. 174 with a view to ensuring the conformity of the legal framework for the prevention of major industrial accidents with the Convention.***

B. Protection in specific branches of activity

Safety and Health in Construction Convention, 1988 (No. 167)

Article 12(1) and (2) of the Convention. Right of workers to remove themselves from a situation of imminent and serious danger to their safety and health, and the employers' obligation to stop the operation and evacuate workers. The Committee once again requests the Government to adopt the necessary measures to ensure that: (i) national laws or regulations provide that workers shall have the right to remove themselves from danger when they have good reason to believe that there is an imminent and serious danger to their safety and health, and the duty to inform their supervisor immediately (Article 12(1) of the Convention); and (ii) where there is an imminent danger to the safety of workers, the employer shall take immediate steps to stop the operation and evacuate workers as appropriate (Article 12(2) of the Convention).

The Committee is raising other matters in a request addressed directly to the Government.

Comoros

White Lead (Painting) Convention, 1921 (No. 13) (ratification: 1978)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1, 2 and 3 of the Convention. Prohibition of the use of white lead and sulphate of lead in the internal painting of buildings. The Committee notes the information provided by the Government in its report that there are no specific provisions in national legislation applying the Convention, but that the Labour Code contains general indications in this respect. The Committee hopes that the Government, in its next report, will be able to provide detailed information on the measures taken in law and practice to regulate the use of white lead and sulphate of lead and of all products containing these pigments, in accordance with the provisions of the Convention.

Application in practice. The Committee notes the Government's indication that there is no report of the inspection services which would provide information on the manner in which the Convention is applied in

practice or which would provide statistical data relating to it. **The Committee requests the Government to provide information when it is available on the application of the Convention in practice, including statistical information on cases of lead poisoning among working painters, indicating, in particular, morbidity and mortality due to lead poisoning.**

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Croatia

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1991)

Occupational Health Services Convention, 1985 (No. 161) (ratification: 1991)

Asbestos Convention, 1986 (No. 162) (ratification: 1991)

The Committee notes that the Government's reports have not been received. It is therefore bound to repeat its previous comments.

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on occupational safety and health (OSH), the Committee considers it appropriate to examine Conventions Nos 155 (OSH), 161 (occupational health services) and 162 (asbestos) together.

The Committee notes the observations of the Union of Autonomous Trade Unions of Croatia (UATUC) and the Independent Trade Unions of Croatia (NHS), received in 2016.

A. General provisions

Occupational Safety and Health Convention, 1981 (No. 155)

Application of the Convention in practice. The Committee notes the information in the registry of the Croatian Institute for Health Protection and Safety at Work (CIHPSW) for 2017, and notes with **concern** that the total number of recorded cases of occupational diseases increased between 2016 and 2017, from 153 in 2016 to 172 in 2017. It also notes the information that, according to the Annual Report in 2017 of the labour inspectorate, there were 22 fatalities at work in 2017. **The Committee requests the Government to continue to provide information on the manner in which the Convention is applied, and to continue to provide the number, nature and cause of occupational accidents and cases of occupational disease reported.**

Occupational Health Services Convention, 1985 (No. 161)

Articles 5(a), (b), (c), (d), (e), (g), (h), (i) and (k) and 6 of the Convention. Establishment and functions of occupational health services. The Committee notes the repeal of the former Occupational Safety and Health Act by the OSH Act 2014, and recalls that sections 22 and 82 of the repealed legislation gave effect to *Article 5* of the Convention. The Committee notes that section 80 of the OSH Act 2014 requires the employer to provide employees with occupational medical services so as to ensure health surveillance appropriate to risks, hazards and exertions during work with a view to protecting the health of employees. Section 81 of the OSH Act 2014 further provides that occupational medicine activities, as well as the plan and programme of health protection measures, shall be prescribed by special regulations on health protection and health insurance, and that the minimum hours that the occupational medicine specialist is required to be present at the workplace shall be stipulated in an Ordinance. In this respect, the Committee notes the observations of the UATUC and the NHS, stating that, as of 2016, the Ministry of Health had not adopted regulations prescribing elements such as the minimum hours the occupational medicine specialist has to spend at the workplace, or the procedures for administering first aid. The Committee also notes the Government's indication that the occupational medicine specialist's participation in risk assessments at the workplace is not prescribed by national legislation, and that experience indicates that the employer rarely consults occupational medicine specialists during such assessments in practice, even though *Article 5(a)* of the Convention prescribes that the functions of occupational health services shall include the identification and assessment of the risks from health hazards in the workplace. In addition, section 20 of the Health Care Act (as amended) sets out types of healthcare that fall within the category of specific healthcare for workers, but provides that the content of measures on specific healthcare of workers and the method for implementing them shall be laid down by the Minister of Health in an Ordinance at the proposal of the CIHPSW, subject to

prior approval by the Minister of Labour and the Pension System. The UATUC and NHS indicate, however, that these measures have not been prescribed. **Noting that the OSH Act 2014 does not directly give effect to the majority of the provisions of Article 5 and requires the adoption of special regulations that have yet to be adopted, the Committee urges the Government to provide the information on the measures taken to give full effect to Articles 5 and 6 of the Convention. The Committee further requests the Government to indicate whether measures have been taken to adopt special regulations concerning occupational health activities and the plan and programme of health protection measures, as envisaged by section 81 of the OSH Act 2014, as well as the Ordinances referred to in section 20 of the Health Care Act. The Committee requests the Government to provide the list of such regulations where they have been adopted.**

B. Protection from specific risks

Asbestos Convention, 1986 (No. 162)

Effective compensation of workers of the Salonit factory. In its previous comments, the Committee requested information regarding the application in practice of the Law on compensation of workers employed with Salonit d.d. (No. 84/11), pursuant to which workers employed in the Salonit factory (which manufactured asbestos products) when it declared bankruptcy in 2006 could apply for compensation within 60 days (section 2). In this regard, the Committee notes the Government's indication in its report that the payment to the workers of compensation due to job loss was planned in instalments over two years in 2011 and 2012. The Committee notes with interest the Government's indication that all requests for compensation have been resolved, with all 170 workers from the Salonit factory being compensated where they were eligible for compensation and had submitted a request to the Fund for Environmental Protection and Energy Efficiency. The Committee also notes the information provided by the Government regarding the establishment of an Ad-hoc Commission for Complaints to deal with appeals against the decisions taken by the Fund, consisting of representatives from the Ministry for Environmental Protection, Physical Planning and Construction, Ministry of Economy, Labour and Entrepreneurship, Ministry of Finance, Ministry of Justice and Fund for Environmental Protection and Energy Efficiency. **The Committee requests the Government to continue to provide information on any developments regarding this issue, including the number of appeals launched, and on the decisions taken by the Ad-hoc Commission for Complaints.**

The Commission for Settling Claims for Compensation by Workers Suffering from Occupational Diseases Due to Exposure to Asbestos (the Commission). The Committee notes the information provided by the Government that, since the establishment of the Commission in 2007 until mid-2016, 1,318 claims had been resolved (1,072 resulting in compensation), 22 were pending before the courts, and 245 were yet to be resolved. The Committee notes the observations by the UATUC and the NHS, which provide different statistics regarding resolved and unresolved claims for compensation. The Committee also notes an absence of information regarding measures taken to raise the awareness of workers regarding possibilities for seeking redress. **The Committee requests the Government to continue to ensure that all claims and requests for compensation by workers suffering from an occupational disease due to exposure to asbestos during the course of their employment are handled as expeditiously as possible. It requests the Government to provide information on progress in this respect, as well as on the measures taken to raise the awareness of such workers regarding the possibilities for seeking redress.**

Application of the Convention in practice. The Committee notes the information provided by the Government regarding the registry of the CIHPSW on asbestos-induced occupational diseases, which are published annually online and includes up-to-date data and statistics on asbestos-induced diseases, broken down by geographical distribution, types of disease, gender, age, types of education and training and other metrics. The Committee notes that, according to the data of the CIHPSW, 89 cases of asbestos-induced occupational illnesses were registered in 2017, of which 79 (88.8 per cent) were men and ten (11.2 per cent) were women. In addition, the Committee notes that, according to the data of the CIHPSW, the percentage of occupational diseases caused by exposure to asbestos in 2017 was 52 per cent (89 out of 172 recorded cases). **Noting the percentage, which remains high, of occupational diseases caused by asbestos, the Committee urges the Government to strengthen its efforts to ensure the medical surveillance in practice of workers that are or have been exposed to asbestos. The Committee further requests the Government to continue to provide information regarding the application of this Convention in practice, including any measures taken at the institutional level in the application of the Convention. In addition, the Committee requests the Government to provide information regarding the application in practice of the prohibition on**

the usage of asbestos and asbestos-containing materials in Croatia, which entered into force on 1 January 2006.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Ecuador

Radiation Protection Convention, 1960 (No. 115) (ratification: 1970)

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) (ratification: 1978)

Asbestos Convention, 1986 (No. 162) (ratification: 1990)

[Previous comment on Convention No. 115](#)

[Previous comment on Convention No. 148](#)

[Previous comment on Convention No. 162](#)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on occupational safety and health, the Committee considers it appropriate to examine Conventions Nos 115 (radiation protection), 148 (air pollution, noise and vibration) and 162 (asbestos) together.

A. Protection against specific risks

1. Radiation Protection Convention, 1960 (No. 115)

Article 3(1) and Article 6(2) of the Convention. Protection measures adopted in the light of current knowledge. The Committee notes that the Government indicates in its report, in reply to its previous request, that the Ministry of Labour, in coordination with the Ecuadorian Atomic Energy Commission, is to organize technical working parties to update the Regulations on radiological safety, issued under Decree No. 3640 of 8 August 1979, and that it will communicate a copy of the regulations following their adoption. In this connection, the Government indicates that consideration will be given to current knowledge in the area of ionizing radiation summarized in the general observation of 2015, as well as other measures established by the International Commission on Radiological Protection (ICRP) and the International Atomic Energy Agency (IAEA). ***The Committee urges the Government to take the necessary measures to update its legislation in line with the Convention, taking account of the 2015 general observation, and to communicate a copy of the amended regulations once they are adopted.***

2. Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)

Article 8(1) and (3) of the Convention. Air pollution and vibration. The Committee notes with **regret** the Government's indication in its report that the criteria and exposure limits to air pollution and vibration are still not specified in national law. ***The Committee urges the Government to take the necessary measures, including in the framework of the updating of the Regulations on occupational safety and health and improvement of the working environment, to update its national legislation to establish the criteria and exposure limits to air pollution and vibration, and to communicate a copy of the relevant legal text, once adopted. It also asks the Government to indicate the manner in which these limits shall be periodically revised, in conformity with Article 8(3) of the Convention.***

Article 12. Notification to the competent authority of processes, substances, machinery and equipment which involve exposure. The Committee notes that Decision No. 2 of the Ecuadorian Standard-setting

Service (INEN) provides for the obligation to notify the INEN regarding chemical substances that cause damage to the central nervous system, vision, brain, and other organs of the human body. However, the Committee notes the Government's indication that the national legislation does not specifically provide for notification to the competent authority in respect of other types of air pollution, nor of noise and vibration. The Committee also notes that the Ministry of Labour will proceed to update the Regulations on occupational safety and health and improvement of the working environment to bring them into compliance with *Article 12* of this Convention. **The Committee requests the Government to take the necessary measures to update its legislation in conformity with the provisions of this Convention and to communicate progress made in this respect.**

3. Asbestos Convention, 1986 (No. 162)

Article 17(1) and (2) of the Convention. Demolition of plants and structures containing friable asbestos insulation materials. The Committee notes the Government's indication that, by virtue of section 149 of the Regulation on security in construction and public works, builders and contractors shall establish procedures that guarantee and monitor the treatment and safe elimination of waste, effluents and emissions in a manner that does not present a hazard to workers or to the environment. However, the Government indicates that it is not established that such procedures must be carried out by builders and contractors recognized by the competent authority. Equally, the Committee notes that under section 152 of the Regulation, plans for the construction, refurbishment or rehabilitation of work centres shall be approved by the Ministry of Labour through its safety and health units. In this respect, the Government indicates that this section does not require the production of a work plan specifically for demolition in case of asbestos. **The Committee requests the Government to adopt the necessary measures to ensure that: (i) the work involving demolition and disposal provided for under Article 17 of the Convention is undertaken only by employers or contractors recognized by the competent authority as qualified to carry out such work; and (ii) that such employers or contractors shall draw up a work plan specifying the measures to be taken before starting demolition work.**

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2024.]

Ethiopia

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1991)

Previous comment: [direct request](#)

Articles 13 and 19(f) of the Convention. Protection of workers who have removed themselves from a situation presenting an imminent and serious danger. The Committee previously noted that section 93 of the Labour Proclamation provided an obligation for workers to report to the employer any situation which they have reason to believe could present a hazard, but that the legislation did not refer to the protection of workers who had removed themselves from such danger.

The Committee welcomes the Government's indication, in response to the Committee's request, that it will examine section 93 in the future with a view to its amendment. **Noting the ongoing process to revise the national OSH legislative framework, the Committee urges the Government to take the necessary measures to ensure that workers who remove themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health, are protected from undue consequences and cannot be required to return to a work situation where there is a continuing imminent and serious danger to life or health.**

Article 17. Collaboration between two or more employers at the same workplace. The Committee notes the Government's indication, in reply to its previous request concerning the absence of legislative

provisions giving effect to *Article 17* of the Convention, that collaboration between two employers at the same workplace is not prescribed by the Labour Proclamation. The Government indicates that two or more undertakings working in the same workplace usually have a subcontracting or joint work agreement between them, including safety and health duties and responsibilities. The Government indicates that labour inspectors dealing with such situations will usually examine the specific circumstances and operations of the two undertakings engaged in activities at the same workplace in the course of inspections. ***The Committee requests the Government to take the necessary measures to ensure that whenever two or more undertakings engage in activities simultaneously at one workplace, they shall collaborate in applying OSH measures. It requests the Government to provide information on the measures taken in this respect, including any measures prescribed in the context of the ongoing process to strengthen the national OSH legislative framework.***

The Committee is raising other matters in a request addressed directly to the Government.

Lebanon

Radiation Protection Convention, 1960 (No. 115) (ratification: 1977)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 3(1) and 6 of the Convention. All appropriate steps to ensure the effective protection of workers, in the light of available knowledge and maximum permissible doses of ionizing radiation. 1. Lens of the eye. The Committee notes that table 2 of Decree No. 11802, regarding the organization of prevention, safety and professional hygiene, sets the dose limitation to the lens of the eye as 150 mSv per year. ***With reference to paragraph 32 of its 2015 general observation on the application of Convention No. 115, the Committee requests the Government to take measures to ensure that the dose limits to the lens of the eye are set as 20 mSv per year, averaged over defined periods of five years, with no single year exceeding 50 mSv per year.***

2. Protection for pregnant and breastfeeding workers. With reference to paragraph 33 of its 2015 general observation on the application of Convention No. 115, the Committee once again requests the Government to provide information on any measures to establish the maximum permissible dose for workers who are pregnant or breastfeeding.

Articles 6(1), 7(1)–(2) and 8. Dose limits for persons between 16 and 18 years. The Committee previously requested the Government to indicate whether Decree No. 700 of 1999 had been revised with a view to setting limits for workers under the age of 18 years involved in ionizing radiation work and prohibiting the engagement of workers under the age of 16 in such work. The Committee notes the Government's indication, in response, that Decree No. 700 has been repealed and replaced by Decree No. 8987 of 2012. Decree No. 8987 provides that engaging workers under the age of 18 in activities where they are exposed to carcinogenic substances, radiations or substances that may cause infertility or birth defects is totally prohibited (section 1 and Annex 1). It also notes that section 21 of Decree No. 11802 sets general dose limits for workers over 18 years of age in the terms of table 2 of the Decree's Annex. However, the Committee notes that Annex 2 of Decree No. 8987, concerning a list of work activities which are likely to harm the health, safety or morals of workers under the age of 16 years, and are allowed for workers aged 16 and over, includes those exposing workers to atomic or ionizing radiation, provided that these workers are offered full protection of their physical, mental and moral health and that these minors receive special education or appropriate vocational training, with an exception of the works totally banned in the terms of Annex 1. With reference to its 2015 general observation on the application of Convention No. 115, the Committee recalls that for occupational exposure of apprentices aged 16 to 18 years of age who are being trained for employment involving radiation and for exposure of students aged 16 to 18 who use sources in the course of their studies, the dose limits are: (a) an effective dose of 6 mSv in a year; (b) an equivalent dose to the lens of the eye of 20 mSv in a year; and (c) an equivalent dose to the extremities (hands and feet) or to the skin of 150 mSv in a year. ***The Committee***

once again requests the Government to take the necessary measures, including in the course of the ongoing labour law reform, to ensure that specific dose levels are fixed for workers between the ages of 16 and 18 engaged in radiation work.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Madagascar

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1964)

Previous comment

Articles 2 and 4 of the Convention. Obligations relating to the hire, transfer and exhibition of machinery. Legislation. Further to its previous comments, the Committee notes with **regret** the Government's indication that no steps have been taken to revise Order No. 889 of 20 May 1960 establishing general measures for occupational hygiene and safety and health. In this regard, the Committee recalls that, under *Article 4* of the Convention, the obligation to ensure compliance with the provisions of *Article 2* shall rest on the vendor, the person letting out on hire or transferring the machinery in any other manner, or the exhibitor and, where appropriate under national laws or regulations, on their respective agents. ***The Committee once again requests the Government to take all necessary measures without delay to ensure the application of Articles 2 and 4 of the Convention, prohibiting the vendor, the person letting out on hire or transferring the machinery in any other manner, the exhibitor or the manufacturer, to sell, let out on hire, transfer in any other manner or exhibit machinery without appropriate guards. The Committee also requests the Government to take the appropriate steps to include in the applicable legislation the list of dangerous parts of machinery specified in Article 2(3) and (4).***

Articles 6 and 11. Prohibition on the use of machinery without appropriate guards. ***The Committee requests the Government to take measures to: (i) prohibit the use of machinery any dangerous part of which, including the point of operation, is without appropriate guards; (ii) prohibit the use of machinery by any worker without the guards provided being in position and prohibit any worker being required to use machinery without the guards provided being in position.***

The Committee is raising other matters in a request addressed directly to the Government.

Morocco

Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 2013)

Previous comment: [direct request](#)

Article 5(4)(a) of the Convention. Requirements established in laws and regulations. Mine rescue. The Committee notes that sections 304, 305 and 315-319 of the Labour Code provide requirements concerning medical services and sections 37, 161 and 162 of the General Regulations on the operation of non-fuel producing mines (the General Regulations) provide requirements for first aid. However, there do not appear to be specific provisions concerning mine rescue. ***The Committee requests the Government to take the necessary measures to establish in national laws and regulations the requirements to be followed in relation to mine rescue.***

Article 5(4)(b). Self-rescue respiratory devices. The Committee notes the Government's indication in reply to its previous comment that section 161 bis of the General Regulations broadens the coverage of first aid from victims of electrical accidents to persons at risk of asphyxia. However, the Committee notes

that it does not cover the provision of self-rescue respiratory devices, as envisaged in *Article 5(4)(b)* of the Convention. ***The Committee once again requests the Government to take the necessary measures to ensure that national laws and regulations include the requirement to provide and maintain adequate self-rescue respiratory devices for workers in underground coal mines and, where necessary, in other underground mines.***

The Committee is raising other matters in a request addressed directly to the Government.

Netherlands

Asbestos Convention, 1986 (No. 162) (ratification: 1999)

Previous comment

The Committee notes the joint observations of the Netherlands Trade Union Confederation (FNV) and the National Federation of Christian Trade Unions (CNV) received on 31 August 2021 and the comments provided by the Government in this respect.

Article 5 of the Convention. Adequate and appropriate system of inspection. Effective enforcement and compliance. Further to its previous comment, the Committee notes that the Government refers to the asbestos supervision programme of the labour inspectorate which aims to increase compliance with the relevant legislation by companies holding certificates for asbestos removal work. The Government specifies that under this programme: (i) there is the objective of inspecting certified companies at least once every three years; (ii) in practice 90 per cent of these companies were inspected in this period; (iii) notorious non-compliant companies are visited several times a year and may have their activities temporarily suspended (three suspensions were issued in 2020 following the detection of serious and frequent violations); (iv) awareness-raising of employers and workers about the dangers and risks of asbestos is carried out in asbestos removal companies; and (v) in 2020, the programme focused on targeting illegal asbestos removals as well as on occupational groups working in installation and plumbing companies. The Government also refers to the increased capacity of the labour inspectorate and to the development of new assessment tools for certified companies engaged in asbestos removal and for workers. The Government further indicates that, in 2020 violations were identified in about 55 per cent of the companies inspected, most of which had committed serious violations, including the absence of risk assessments and the illegal removal of asbestos and that there is an ongoing criminal investigation in relation to illegal asbestos removal.

The Committee notes that the FNV and CNV reiterate observations on the functioning of the certification system for asbestos removal companies, stating that those that systematically fail to comply with the legislation can continue to operate and their certificates are very rarely removed. In their view, following serious violations where workers are exposed to asbestos beyond the limit value of 2000 fibres/m³, the companies' operations should not be stopped temporarily, but permanently.

In this regard, the Committee takes note of the Government's indications that: (i) the measures adopted by the labour inspectorate with respect to offending certified companies should be proportionate to the seriousness of the violations detected and it would not be proportionate to ban the operation of these companies following the detection of one serious violation; (ii) ordering a temporary halt of all activities of such companies is a serious measure applied by the labour inspectorate that can have direct and major consequences; (iii) the labour inspectorate reports suspicions of non-compliance by a certified company to the certification bodies, which determine whether this is the case and then take action; (iv) when non-compliance with the requirements of the certification system is detected, the certification bodies take appropriate measures against certified companies, including issuing a warning, unconditional or conditional suspension of activities and, as a final measure, withdrawal of the certificate (after giving the certified company the opportunity to

implement the required improvements); and (v) the labour inspectorate supervises the certification system, including the manner in which certification bodies carry out their tasks and is authorized, if necessary, to impose measures on certification bodies, including suspension or revocation of their designation where there are serious shortcomings. ***The Committee requests the Government to continue to provide information on specific measures taken in practice by the labour inspectorate to ensure compliance with the provisions of the Convention, including information on the number of inspectors dedicated to asbestos-related inspections, inspection visits, violations detected, and penalties imposed, as well as activities to supervise the certification system for asbestos removal. The Committee also requests the Government to provide further information on certified companies whose certificates to work with asbestos have been withdrawn by the competent certifying bodies, following inspections carried out or actions taken by the labour inspectorate.***

Nicaragua

Benzene Convention, 1971 (No. 136) (ratification: 1981)

Occupational Cancer Convention, 1974 (No. 139) (ratification: 1981)

Previous comment on Convention No. 136: [direct request](#)

[Previous comment on Convention No. 139](#)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on occupational safety and health, the Committee considers it appropriate to examine Conventions Nos 136 (benzene) and 139 (occupational cancer) together.

Protection against specific risks

1. Benzene Convention, 1971 (No. 136)

Article 8 of the Convention. Provision of adequate means of personal protection and limitation of the duration of exposure to concentrations of benzene which exceed the maximum limit. With reference to its previous comments, the Committee notes the Government's indication that workers have adequate means of personal protection at their disposal, which reduces the risk of occupational exposure. In this connection, the Committee notes that sections 137 and 138 of Act No. 618 of 2007, provide that work clothing and personal protective equipment shall be adequate and ensure effective protection.

With reference to its earlier comments on the obligation of the employer to limit the duration of workers' exposure to concentrations of benzene which exceed the maximum limit, the Committee notes with **regret** that the Government has failed to respond to the request that the Committee has been formulating for several years. ***The Committee therefore urges the Government to take the necessary measures in the near future to guarantee that the duration of workers' exposure to concentrations of benzene in the air of places of employment that exceed 25 parts per million (80 mg/m³) is limited, in accordance with Article 8(2) of the Convention.***

Article 11. Prohibition of the employment of pregnant women and nursing mothers in work processes involving exposure to benzene. With regard to its previous comments, the Committee notes the Government's indication that, given the existence of specific legal standards to protect working conditions of pregnant women and nursing mothers, this category of workers is not prohibited from working. The Government adds that pregnant women and nursing mothers are monitored and supervised by the General Directorate of Occupational Safety and Health, the General Labour Inspectorate, the Ministry of Health, the National Commission for the Registration and Monitoring of Toxic Substances (CNRCST) and the Nicaraguan Social Security Institute. ***The Committee urges the Government, once again, to take the necessary measures to ensure that women medically certified as***

pregnant, and nursing mothers are not employed in work processes involving exposure to benzene or products containing benzene and to provide information on the specific measures adopted in this respect.

2. Occupational Cancer Convention, 1974 (No. 139)

Article 2(1). Obligation to have carcinogenic substances and agents replaced by non-carcinogenic substances or agents. With reference to its previous comments, the Committee observes that the Government provides general information on the process of authorization, restriction, prohibition and registration of chemical substances, which includes thorough toxicological assessments of their environmental, sanitary, agricultural, and domestic effects and those of substitute substances, carried out by the CNRCST, but makes no reference to the replacement of carcinogenic substances or agents by non-carcinogenic or less harmful substances or agents. ***While noting that the Government indicates that the CNRCST is mandated to regulate chemical substances, pesticides and other toxic substances, the Committee urges the Government to adopt the necessary measures to identify the carcinogenic substances and agents that must be replaced and to take the steps required for their replacement within the framework of the CNRCST or any other institution competent in the matter.***

Article 5. Medical examinations during or after employment. The Committee notes that sections 23 to 27 of Act No. 618 of 2007, the General Act on Occupational Safety and Health, provide for medical examinations before and during employment but do not include the post-employment examinations required by the Convention. ***The Committee requests the Government to adopt measures to ensure that such medical examinations, or investigations of a biological or other nature, as may be required to assess workers' exposure or state of health in respect of occupational hazards are provided following a period of employment.***

The Committee is raising other matters in a request addressed directly to the Government.

Niger

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2009)

Occupational Health Services Convention, 1985 (No. 161) (ratification: 2009)

Previous comment on Convention No. 155: [direct request](#)

Previous comment on Convention No. 161: [direct request](#)

In order to provide an overview of the issues relating to the application of the ratified Conventions on occupational safety and health (OSH), the Committee considers it appropriate to examine Conventions Nos 155 (OSH) and 161 (occupational health services) in the same comment.

Occupational Safety and Health Convention, 1981 (No. 155)

Articles 13 and 19(f) of the Convention. Protection of workers who have removed themselves from a situation presenting an imminent and serious danger. The Committee previously noted that the obligation in section 139 of the Labour Code to notify the employer of any work situation presenting a danger did not give full effect to *Articles 13 and 19(f)* of Convention No. 155. In this regard, the Committee notes the Government's indication in its report that workers can inform the OSH committees, which in turn inform the labour inspectors, who refer the matter to a judge for an urgent application, if the employer asks the workers to resume work in a situation where there is continuing imminent and serious danger to life or health. However, the Committee notes an absence of information on the manner in which it is ensured that any workers who have removed themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health are protected from undue consequences, in accordance with *Article 13* of Convention No. 155. ***The***

Committee therefore once again requests the Government to take the necessary measures to ensure that any workers who have removed themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health are protected from undue consequences, in accordance with Article 13 of Convention No. 155. Also noting that OSH committees are not established in all enterprises, the Committee also requests the Government to provide information on the manner in which it is ensured in practice that workers cannot be required to return to a work situation where there is continuing imminent and serious danger to life or health, until the employer has taken remedial action (Article 19(f)).

Occupational Health Services Convention, 1985 (No. 161)

Article 2 of the Convention. Formulation, implementation and periodic review, in consultation with the most representative organizations of employers and workers, of a coherent national policy on occupational health services. Further to its previous comments, the Committee notes the adoption of the national OSH policy on 30 June 2017, and observes that this policy contains information on occupational health services but not on any strategy devoted to these services. **The Committee therefore requests the Government to take the necessary steps to formulate, implement and periodically review a coherent national policy on occupational health services, in consultation with the most representative organizations of employers and workers.**

Article 3. Progressive development of occupational health services for all workers. The Committee previously asked the Government to indicate the extent to which workers benefit in practice from health services. It notes the Government's reply that enterprise health services do not exist in sectors other than mining. In this regard, section 362 of Decree No. 2017-682/PRN/MET/PS issuing the regulatory part of the Labour Code establishes the possibility for establishments with fewer than 250 workers to adopt healthcare agreements, laying down obligations regarding visits, medical examinations, and urgent and first aid treatment, in medical centres and official dispensaries. However, the Government indicates that even though the healthcare agreement system is widespread, the services covered by these agreements are not occupational medical services. **The Committee hopes that the Government will take the necessary steps to progressively develop occupational health services for all workers. It requests the Government to continue to provide information on the extent to which workers benefit in practice from health services in all sectors and on the steps taken to develop occupational health services for all workers.**

The Committee is raising other matters in a request addressed directly to the Government.

Uganda

Asbestos Convention, 1986 (No. 162) (ratification: 1990)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes with **deep concern** that the Government's report, due since 2018, has not been received. In light of its urgent appeal launched to the Government in 2020, the Committee proceeds with the examination of the application of the Convention on the basis of the information at its disposal.

Articles 3–18 and 20–22 of the Convention. Application of the Convention in law and in practice. Following its examination of the information at its disposal, the Committee notes that important information on measures giving effect to Articles 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21 and 22 of the Convention has not been submitted, namely:

- specific laws or regulations for the prevention and control of, and protection of workers against, health hazards due to occupational exposure to asbestos;

- specific regulations, if any, adopted in application of the National Environment Act 2019 (pursuant to section 71 of the Act) and repealing the National Environment (Waste Management) Regulations S.I No. 52/1999; and
- the application of measures taken to prevent, control, and to protect workers against, asbestos-related health hazards in practice.

The Committee requests the Government to provide detailed information on the points listed above without delay, including copies of the relevant pieces of legislation.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Ukraine

Radiation Protection Convention, 1960 (No. 115) (ratification: 1968)

Occupational Cancer Convention, 1974 (No. 139) (ratification: 2010)

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2012)

Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 2011)

[Previous comments on C115](#)

[Previous comments on C139, C155 and C176](#)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on occupational safety and health (OSH), the Committee considers it appropriate to examine Conventions Nos 115 (radiation protection), 139 (occupational cancer), 155 (OSH) and 176 (safety and health in mines) together.

The Committee notes the joint observations of the Confederation of Free Trade Unions of Ukraine (KVPU) and the Federation of Trade Unions of Ukraine (FPU), received 6 October 2022, concerning the Draft Law on Labour and the Draft Law on Safety and Health at Work.

The KVPU and the FPU indicate that the Draft Law on Labour is not in conformity with Convention No. 155, with respect to *Articles 4* (consultation with the most representative organizations of employers and workers in the development, implementation and review of the national OSH policy), *5(e)* (the protection of workers and their representatives from disciplinary measures), *8* (implementation of the national policy) and *10* (measures to provide guidance to employers and workers). The KVPU and FPU further state that the Draft Law on Safety and Health at Work is not in conformity with Convention No. 155, and in particular, *Articles 4, 5(e), 8, 10, 13* (protection for a worker that has removed themselves from a dangerous work situation) and *Article 19* (arrangements at the level of the undertaking relating to rights and duties of workers and their representatives, and cooperation). The unions indicate that the Draft Law on Safety and Health at Work has been developed to replace the current Labour Protection Act, and that it will significantly narrow the content and scope of existing guarantees and rights of employees related to safe and healthy working conditions. The unions allege that this Draft Law will remove the right to benefits and compensation for work in difficult and harmful working conditions, currently contained in the Labour Protection Act, and that the Draft does not stipulate minimum funding for preventive measures. ***The Committee requests the Government to provide its comments in this respect. The Committee also requests the Government to take the necessary measures to ensure that any legislation adopted on safety and health is in conformity with ratified OSH Conventions, and it recalls that the Government can avail itself of the technical assistance of the ILO in this regard. Lastly, recalling the importance of consultations with the representative organizations of employers and workers in the implementation of Convention No. 155, it requests the Government to provide***

information on the consultations held with the organizations of employers and workers on the development of the Draft Law on Labour and the Draft Law on Safety and Health at Work.

Application of Conventions No. 115 and No. 155 in practice. Nuclear power plant workers. The Committee notes that the Report on developments relating to the resolution concerning the Russian Federation's aggression against Ukraine from the perspective of the mandate of the International Labour Organization, presented to the Governing Body at its 346th Session, October–November 2022 (GB.346/INS/14), noted rising concerns about the safety of workers in the occupied Zaporizhzhya Nuclear Power Plant. The Report highlighted concerns regarding the deteriorating working conditions and the safety of workers, mainly due to potential increased exposure to radiation, which would require continuous on-site and off-site monitoring and emergency preparedness measures. In a report published on 6 September 2022, the International Atomic Energy Agency (IAEA) underlined that substantial risks remain to the safety and integrity of the plant. In a statement released 20 November 2022, the Director General of the IAEA reiterated the urgent need for measures to help prevent a nuclear accident at the Zaporizhzhya Nuclear Power Plant. **The Committee urges that all necessary measures be taken to protect the safety and health of nuclear power plant workers. In particular, it urges the strengthening of the implementation of Convention No. 115 with a view to ensuring the effective protection of workers against ionising radiations in the course of their work.**

The Committee notes the extremely difficult situation in the country since 24 February 2022, and notes that in this context, no reports have been sent from the Government on the application of ratified OSH Conventions. The Committee therefore repeats its previous comments:

The Committee takes note of the observations of the International Trade Union Confederation (ITUC) on the application of Conventions Nos 155 and 176, received on 16 September 2020, alleging that there is a lack of preventive and protective measures to protect workers against the spread of COVID-19 and a shortage of personal protective equipment throughout the country, but especially in the healthcare and mining sector. **The Committee requests the Government to provide its comments in this respect.**

The Committee also notes the observations of the Confederation of Free Trade Unions of Ukraine (KVPU) on the application of Conventions Nos 155 and 176, received in 2019.

Occupational Safety and Health Convention, 1981 (No. 155)

Article 11(c) of the Convention. Notification of occupational accidents and diseases. The Committee notes that, according to the observations of the KVPU, employers do not follow, in practice, the notification procedures established by Decision No. 337 of the Cabinet of Ministers of Ukraine of 17 April 2019 approving the Procedure for Investigating and Recording Accidents and Occupational Diseases. The KVPU alleges that employers transmitted the notifications in violation of the deadlines, for 120 out of the 209 accidents registered by the State Labour Service (SLS) in the first half of 2019. **The Committee requests the Government to provide its comments in this respect, and to take the necessary measures to ensure that Decision No. 337 is fully applied in practice with a view to ensuring the notification of occupational accidents and diseases by employers.**

Occupational Cancer Convention, 1974 (No. 139)

Articles 2, 3 and 4 of the Convention. Replacement of carcinogenic substances and agents, measures to be taken to protect workers, record keeping, and provision of information. The Committee notes that the Government's report does not respond to its previous comments on the issues covered by Articles 2 (replacement of carcinogenic substances and agents), (measures taken to protect workers and for record keeping) and 4 (providing workers with information on the dangers involved and the measures to be taken) of the Convention. The Committee also notes with **concern** that the Government: (1) reiterates previously raised difficulties in the application in practice of those Articles, including lack

of funding, leading to the absence of measures to replace carcinogenic substances and agents by non-carcinogenic or less harmful substances or agents, and of an appropriate system to record the number of workers exposed to carcinogenic substances and agents; and (2) indicates that there are currently no special measures to ensure that workers who have been, are or may be exposed to carcinogenic substances and agents, are provided with all possible information regarding the dangers involved and the measures that should be taken. ***Taking into account the difficulties raised, the Committee urges the Government to take all the necessary measures to ensure that full effect is given to Articles 2, 3 and 4 of the Convention in the near future, and to provide information on the measures taken in this respect.***

Safety and Health in Mines Convention, 1995 (No. 176)

Articles 5(1), (2)(e) and 16 of the Convention. Supervision of safety and health in mines, suspension of mining activities, corrective measures and enforcement. In response to its previous comments on inspections undertaken in mines, the Committee notes the statistics provided in the Government's report regarding the number of inspections conducted, violations detected and total amount of fines imposed. The Committee also notes the observations of the KVPU, alleging that the application of Act No. 877-V of 2007 on Fundamental Principles of State Supervision and Monitoring of Economic Activity restricts inspection in mines. The KVPU also refers to an incident in 2017–18 in which there were two fatal accidents at the same mining workplace within a year of each other, due to the failure to respect an order prohibiting the use of certain equipment, issued by the administrative court following an application by the State Labour Service (SLS). ***Referring to its comments concerning restrictions on the powers of labour inspectors, adopted in 2020 under the Labour Inspection Convention, 1947 (No. 81), and the Inspection (Agriculture) Convention, 1969 (No. 129), the Committee requests the Government to take all the necessary measures to ensure the effective enforcement of the provisions of this Convention, in accordance with Article 16. In this regard, the Committee requests the Government to continue to provide statistics on violations detected during inspections, and detailed information on the measures taken by inspectors in such cases, including penalties imposed and other corrective measures. In addition, the Committee requests the Government to provide further information on the application in practice of Article 5(2)(e), regarding the power of the competent authorities to suspend or restrict mining activities on safety and health grounds, until the condition giving rise to the suspension or restriction has been corrected.***

Articles 5(2)(c) and (d), 7 and 10(d). Measures to eliminate or minimize the risks to safety and health in mines. Procedures for investigating fatal and serious accidents and the compilation and publication of statistics. Appropriate remedial measures and measures taken to prevent future accidents by employers as a result of investigations. Further to its previous comments, the Committee notes the Government's reference to the procedure for investigating accidents in enterprises in the coal industry, pursuant to Decision No. 337 of the Cabinet of Ministers of Ukraine of 17 April 2019 approving the Procedure for Investigating and Recording Accidents and Occupational Diseases. The Committee notes, however, that, according to the Government, 23 per cent of investigations mandated in 2018 are still outstanding, along with 5 per cent of the ones mandated in 2017 and 5 per cent of those mandated in 2016, due primarily to the lack of conclusions that should result from the investigation procedure. The KVPU also alleges that the established notification procedures for occupational accidents and diseases are not followed in practice. As regards measures taken to address the causes of such accidents, the Government indicates that the SLS established a commission to review regulatory documents on removing gases, ventilation and combating gas-dynamic phenomena, but does not refer to measures taken in mines in general. The Committee nevertheless notes the observations from the ITUC, which refers to the high rate of occupational accidents and diseases in the mining sector, and alleges that occupational fatalities and diseases in mining are underestimated as there is scant data in the industry. The ITUC further alleges that, according to the SLS, 68.7 per cent of workers in mining have been

working in conditions which fail to meet sanitary and hygienic standards, that 53.5 per cent work with excessive dust, 42.3 per cent with excessive noise, 14.2 per cent with excessive vibration, and 9.8 per cent with excessive exposure of harmful chemicals. ***The Committee requests the Government to provide its comments in respect of the ITUC's observations. The Committee also requests the Government to take the necessary measures to ensure that full effect is given to Article 10(d) of the Convention, requiring that employers shall ensure that all accidents and dangerous occurrences are investigated and appropriate remedial action is taken in practice. As regards Article 5(2)(d) on the compilation and publication of statistics on accidents, occupational diseases and dangerous occurrences, the Committee refers to its comments adopted in 2020 concerning Article 11(c) of Convention No. 155. The Committee also requests the Government to provide further detailed information on the measures taken to ensure the application, in mines, of the employers' duties contained in Articles 7 and 10.***

Article 5(2)(f). Rights of workers and their representatives to be consulted on and participate in OSH measures. Further to its previous comments on procedures to implement the rights of workers and their representatives to be consulted on and participate in OSH measures (*Article 5(2)(f)*), the Committee notes that section 42 of the Labour Protection Act provides that OSH representatives may apply for assistance to the bodies in charge of state supervision over OSH, and have a right to participate and make appropriate proposals during inspections. The Committee also notes, however, the observations of the KVPU, alleging that the national legislation does not provide for mandatory and documented procedures to secure real forms of participation by workers' and their representatives in consultations on OSH at the workplace. ***The Committee requests the Government to provide its comments in this respect and to provide further information on the establishment of effective procedures to ensure the implementation of the rights of workers and their representatives to be consulted on OSH matters, and to participate in measures, relating to safety and health at the workplace in accordance with the provisions of the Article.***

The Committee is raising other matters in a request addressed directly to the Government.

Bolivarian Republic of Venezuela

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1984)

Previous comment

The Committee notes the observations on the application of the Convention submitted jointly by the Independent Trade Union Alliance Confederation of Workers (CTASI), the Confederation of Workers of Venezuela (CTV), and the Federation of University Teachers' Associations of Venezuela (FAPUV), received on 1 September 2022. The Committee also notes the observations submitted by the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), received on 2 September 2022. ***The Committee requests the Government to provide its comments in this respect.***

Articles 4, 7 and 8 of the Convention. Implementing and periodically reviewing a coherent national policy on occupational safety and health and the working environment, and measures to give effect to the above-mentioned national policy in consultation with the most representative organizations of employers and workers concerned. In relation to its previous comments, the Committee notes that section 11 of the 2005 Basic Act on prevention, conditions of work and the working environment (LOPCYMAT) sets out 12 elements to be included in the national occupational safety and health (OSH) policy, which include the mechanisms and policies for coordination between the competent bodies and entities in occupational health and safety and prevention. In this respect, the Committee notes the information provided by the Government in its report on the various measures to implement the national OSH policy though the training of prevention delegates by the National Institute for Occupational Safety, Health and Prevention (INPSASEL), the undertaking of a considerable number of investigations into

occupational accidents and diseases, and the carrying out of 90,523 occupational safety and health inspections from 2016 to July 2022.

The Committee notes with **regret** that the Government has not provided information on the implementation and periodic review of the national policy or the manner in which consultations are held on the implementation measures for the policy with the most representative employers' and workers' organizations concerned. **The Committee requests the Government to take the necessary measures without delay to ensure that consultations are held with the most representative workers' and employers' organizations concerned regarding the implementation and periodic review of its national policy, as well as on the necessary measures adopted to give effect to this policy in accordance with Articles 4 and 8 of the Convention, and to provide specific information on the measures taken in this respect, including the employers' and workers' organizations consulted and the results of such consultations. The Committee also requests the Government to provide information on the measures taken to ensure that the occupational safety and health situation and working environment is reviewed at appropriate intervals, as well as information on the outcomes of this review, including the main problems identified, the means of resolving them and priorities for action.**

Article 5(e). *Protection of workers and their representatives from disciplinary measures as a result of actions properly taken by them in conformity with the national OSH and working environment policy.* In relation to its previous comments on the dismissal of prevention delegates, the Committee notes with **concern** the joint observations of CTASI, CTV and FAPUV alleging the dismissal of union leaders in the cement industry for reporting the occurrence of occupational accidents. The Committee notes that, in accordance with section 11(5) of the LOPCYMAT of 2005, the national OSH policy must include safeguards and other protections for workers who act individually or collectively in defence of their rights. **The Committee urges the Government to examine, together with the trade union organizations concerned, the situation of the trade union leaders who have been adversely affected and, in the event that they have been dismissed as a result of actions justifiably taken by them in accordance with national policy, to reinstate them immediately in their jobs without loss of benefits in compliance with section 11(5) of the 2005 LOPCYMAT and Article 5(e) of the Convention. The Committee requests the Government to provide information on the measures taken in this respect, including the conclusions of the examination carried out together with the trade union organizations and the measures taken as a result. The Committee also requests the Government to provide specific information in relation to the review of the unjustified dismissal of prevention delegates to which the Committee referred in its previous comments and the measures adopted as a result of this review.**

Articles 6 and 15. *Functions and responsibilities and coordination between the various authorities and bodies.* In relation to its previous comments in which it took note that the National Council for Occupational Safety and Health was not operational, the Committee notes with **regret** that the Government has not provided information regarding making the Council operational or on the measures taken or envisaged to ensure the necessary coordination between the various authorities and bodies responsible for giving effect to the provisions of the Convention. **The Committee requests the Government to take the necessary measures to ensure that the National Council for Occupational Safety and Health, established pursuant to section 36 of the 2005 LOPCYMAT, becomes operational. The Committee also once again requests the Government to provide information on the measures taken or envisaged to ensure the necessary coordination between the various authorities and bodies responsible for giving effect to the provisions of the Convention, as well as on the consultations held with the most representative organizations of employers and workers concerning these measures and on their outcomes.**

Article 11(d). *Holding of inquiries where cases of occupational accidents appear to reflect serious situations and application of the Convention in practice.* The occupational safety and health situation in the electricity, petroleum, cement and healthcare sectors. In relation to its previous comments, the Committee notes the Government's indication that, in accordance with the protocol established by INPSASEL on the

investigation of occupational accidents, serious, very serious and fatal occupational accidents notified to the State-level Departments of Occupational Safety and Health (GERESAT) are investigated immediately. The Government adds that, in relation to occupational diseases, the investigation protocol establishes that they must be investigated according to the order in which they are presented, notified or recorded. The Committee notes that under the 2005 LOPCYMAT, the OSH services, which are multidisciplinary and preventive in nature (section 39), have the obligation to investigate occupational accidents and diseases in order to explain what happened and take the necessary corrective measures (section 40(14)).

With regard to the measures taken in relation to OSH conditions in the cement and petroleum sectors, the Committee notes the Government's indication that INPSASEL receives and records notifications of occupational accidents and then carries out the related investigations and inspections. In this regard, the Government reports the number of occupational accidents notified to INPSASEL between 2017 and July 2022 in the petroleum sector (2,467 accidents) and in the cement sector (489 accidents), as well as the number of inspections carried out between 2021 and July 2022 in the petroleum sector (18 inspections) and in the cement sector (4 inspections).

The Committee also notes with **concern** the information provided by CTASI, CTV and FAPUV in their joint observations on OSH conditions, in which they allege that: (i) in the electricity sector, a lack of minimum safe working conditions poses a serious danger to workers and led to the death of six workers between March and June 2022: three workers died after an electrical tower on which they were working collapsed and three workers were electrocuted while attempting to correct electrical faults; (ii) in the oil sector, fires, explosions and gas fumes have caused occupational accidents, and oil spills have damaged nets and boat engines, preventing fishermen from working, and have caused farmers to lose animals and crops; (iii) in the cement sector, OSH conditions, including a lack of provision of adequate work equipment and tools, led to the death of two workers while performing their duties in 2022; and (iv) in health centres, the lack of water and disinfectant for cleaning facilities, the reuse of masks due to insufficient supplies, and the failure to provide protective barriers have led to the infection and death of medical personnel, as well as the closure of 80 per cent of health centres nationwide. ***Taking due note of the information provided by the above-mentioned organizations, the Committee urges the Government to establish a forum for dialogue with these organizations in order to discuss the necessary measures to be taken in relation to OSH conditions in the electricity, petroleum, cement and healthcare sectors. The Committee also requests the Government to provide information on the investigations carried out into serious and fatal occupational accidents in the electricity, petroleum, cement and healthcare sectors.***

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2024.]

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 13** (Cameroon, Central African Republic, Chad, Chile, Colombia, Côte d'Ivoire, Djibouti, Madagascar, Morocco, Nicaragua, Bolivarian Republic of Venezuela); **Convention No. 45** (Cameroon, China, Costa Rica, Côte d'Ivoire, Croatia, Ecuador, Guinea-Bissau, Morocco, Nicaragua, Nigeria, Bolivarian Republic of Venezuela); **Convention No. 62** (Central African Republic, Democratic Republic of the Congo, Malta, Netherlands); **Convention No. 115** (Chile, China, China: Macau Special Administrative Region, Djibouti, Finland, France: French Polynesia, Lebanon, Lithuania, Netherlands, Nicaragua, Ukraine); **Convention No. 119** (Central African Republic, Democratic Republic of the Congo, Ecuador, Finland, Madagascar, Malta, Morocco, Nicaragua, Niger, North Macedonia, Ukraine); **Convention No. 120** (Central African Republic, Costa Rica, Democratic Republic of the Congo, Djibouti, Finland, Lebanon, Madagascar, Saudi Arabia, Ukraine, Bolivarian Republic of Venezuela); **Convention No. 127** (Chile, Costa Rica, Lebanon,

*Lithuania, Madagascar, Malta, Nicaragua, Bolivarian Republic of Venezuela); **Convention No. 136** (Chile, Colombia, Côte d'Ivoire, Ecuador, Finland, Lebanon, Malta, Morocco, Nicaragua); **Convention No. 139** (Croatia, Ecuador, Finland, Lebanon, Netherlands, Nicaragua, North Macedonia, Ukraine, Bolivarian Republic of Venezuela); **Convention No. 148** (China: Hong Kong Special Administrative Region, China: Macau Special Administrative Region, Costa Rica, Croatia, Ecuador, Finland, Lebanon, Malta, Netherlands, Niger, North Macedonia); **Convention No. 155** (Cabo Verde, Central African Republic, China, China: Macau Special Administrative Region, Côte d'Ivoire, Croatia, Cyprus, Ethiopia, Finland, Malawi, Netherlands, New Zealand, Niger, Rwanda, Ukraine, Bolivarian Republic of Venezuela); **Convention No. 161** (Chile, Colombia, Côte d'Ivoire, Croatia, Finland, Niger, North Macedonia, San Marino, Ukraine); **Convention No. 162** (Cameroon, Chile, Colombia, Croatia, Cyprus, Ecuador, Finland, Morocco, Netherlands); **Convention No. 167** (China, China: Macau Special Administrative Region, Colombia, Finland, Guinea, Russian Federation); **Convention No. 170** (China, Colombia, Côte d'Ivoire, Cyprus, Finland, Lebanon, Netherlands); **Convention No. 174** (Colombia, Finland, Lebanon, Netherlands, Ukraine); **Convention No. 176** (Finland, Lebanon, Morocco, Ukraine); **Convention No. 184** (Finland, Malawi, Serbia, Ukraine); **Convention No. 187** (Chile, Côte d'Ivoire, Cyprus, Finland, Iceland, Malawi, Morocco, Niger, Philippines, Rwanda).*

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 13** (Finland).

Social security

Central African Republic

Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18) (ratification: 1964)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Articles 1 and 2 of the Convention. List of recognized occupational diseases. With reference to its previous comments, the Committee once again notes with **concern** that the list of occupational diseases envisaged in section 91 of the Social Security Code of 2006 and section 81 of Decree No. 09-116 of 27 April 2009, on the application of the Social Security Code, has still not been adopted by the Ministers responsible for social security and public health. The Government indicates in this regard that in 2013 a national delegation participated in the work of the technical committee responsible for finalizing the harmonized list of occupational diseases at the Inter-African Conference on Social Insurance (CIPRES) and that the committee responsible for preparing the list has taken up its work once again. The recurrent crises experienced by the country in recent years have however prevented the Government from finalizing the process of the preparation of the list of occupational diseases. The Committee wishes to emphasize that, without a list of occupational diseases, it is impossible to implement not only compensation, but also the prevention of such diseases. **The Committee therefore once again expresses the hope that the technical committee responsible for the adoption of the list of occupational diseases will be in a position to complete its work in the very near future and that the Ministries concerned will be able to adopt the schedules of occupational diseases envisaged in the Social Security Code and Decree No. 09-116, taking duly into consideration the Schedule annexed to the Convention.** In this regard, the Committee draws the Government's attention to the List of Occupational Diseases Recommendation, 2002 (No. 194), which contains the most up-to-date list of occupational diseases at the international level.

Recommendations of the Standards Review Mechanism. The Committee notes that, according to the recommendations made by the Tripartite Working Group of the Standards Review Mechanism, as approved by the ILO Governing Body, Member States which have ratified the Convention are encouraged to ratify the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), and/or the Social Security (Minimum Standards) Convention, 1952 (No. 102), and accept the obligations in its Part VI, as the most up-to-date instruments in this subject area (GB.328/LILS/2/1). The Committee reminds the Government of the possibility of having recourse to ILO technical assistance in this regard.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1964)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee recalls that, following the adoption of Act No. 06-035 of 28 December 2006 issuing the Social Security Code, Decree No. 09-116 of 27 April 2009 implementing that Act, and Decree No. 09-115 of 27 April 2009 determining the legal and institutional status of the National Social Security Fund, the national law and regulations continue to be based on the principle that equality of treatment is subject, contrary to *Article 4(1)* of the Convention, to the condition of the residence of foreign nationals in the national territory. The provision of benefits abroad is only possible if it is provided for by a bilateral or multilateral social security agreement, which is contrary to the provisions of *Article 5(1)* of the Convention. In the Central African Republic, this provision of the Convention requires the provision of old-age benefit and employment injury pensions, without other conditions, to its own nationals and to the nationals of any other Member which has accepted the obligations of the Convention in respect of these benefits. The Committee notes that the Government, in its report, does not indicate any measures adopted or envisaged with a view to amending the national legislation to bring it into conformity with these provisions of the Convention. In light of the

information available, the Committee concludes once again that the national legislation continues not to give full effect to the essential provisions of the Convention. ***The Committee expects that the Government will take the necessary measures to make appropriate amendments to the legislation so as to give full effect to the Convention.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Chile

Sickness Insurance (Industry) Convention, 1927 (No. 24) (ratification: 1931)

Sickness Insurance (Agriculture) Convention, 1927 (No. 25) (ratification: 1931)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on social security, the Committee considers it appropriate to examine Conventions Nos 24 (sickness insurance, industry) and 25 (sickness insurance, agriculture) together.

Article 7(1) of the Conventions. Contribution to the establishment of the sickness insurance fund. With regard to its previous comments, the Committee notes from the Government's report that, in accordance with sections 158 and 184 and following. of Legislative Decree No. 1 of 2006, the public health system and the private health scheme are financed with a 7 per cent contribution from workers' pay or income, besides additional contributions by workers in the private scheme. The Committee notes that the State contributes to both schemes in certain circumstances. One of the circumstances in which the State shall contribute is established by Act No. 20850 of 2015, which envisages a financial protection system for high-cost diagnoses and treatment. Another circumstance is provided for by Act No. 21010 of 2017, which has created a fund to finance the Insurance to Support Children (SANNA), which benefits working parents of children under the ages of 15 or 18 years with serious health conditions. In addition, the Committee notes that the SANNA also receives the monthly contributions paid by the employer or the self-employed worker, the amount of which is 0.03 per cent of taxable income. While noting the employers' contribution to the establishment of the sickness insurance fund in respect of compensation to support children with serious health conditions, the Committee observes that the sickness insurance, which includes medical care and sickness benefits, is mainly financed by insured persons, with the State's participation in certain circumstances. ***In this regard, the Committee recalls the importance of fulfilling the basic principle provided for in Article 7(1) of the Conventions, under which workers and employers shall share in providing the financial resources of the sickness insurance fund. The Committee requests the Government, in consultation with the social partners, to ensure the full application of the principle provided for in these Articles of the Conventions and to provide information in this respect.***

The Committee has been informed that, based on the recommendations of the Standards Review Mechanism Tripartite Working Group (SRM tripartite working group), the Governing Body decided that Member States for which Conventions Nos 24 and 25 are in force should be encouraged to ratify the more recent Medical Care and Sickness Benefits Convention, 1969 (No. 130), or the Social Security (Minimum Standards) Convention, 1952 (No. 102), accepting Parts II and III (see GB.328/LILS/2/1). Conventions Nos 130 and 102 reflect the more modern approach to medical care and sickness benefits. ***The Committee therefore encourages the Government to follow up the Governing Body decision at its 328th Session (October–November 2016) approving the recommendations of the SRM tripartite working group and to consider ratifying Convention No. 130 or No. 102 (Parts II and III), as the most up-to-date instruments in this subject area. The Committee reminds the Government of the possibility to avail itself of the technical assistance of the Office in this regard.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Finland

Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) (ratification: 1976)

Previous comment

Article 25, in conjunction with Article 21 of the Convention. Duration of payment of survivors' benefits. The Committee notes from the Government's report that, pursuant to the 2022 reform of the survivors' pension scheme, the duration of the surviving spouse's pension is limited to a period of ten years, or until the youngest child reaches the age of 18. The Committee recalls that *Article 25* of the Convention requires survivors' benefits be granted throughout the contingency, which is the loss of support suffered by the spouse or child as the result of the death of the breadwinner, as per *Article 21(1)*. While the entitlement of spouses to survivors' benefits may be conditional upon them being incapable of self-support, the Convention does not allow such entitlement to be based on other conditions such as caring for a dependent or to be limited in time, without this limitation being justified by a change in their own circumstances. **The Committee therefore requests the Government to take the necessary measures to ensure that survivors' benefits are paid throughout the contingency, in line with Article 25 of the Convention.**

The Committee is raising other matters in a request addressed directly to the Government.

Lebanon

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1977)

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1977)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on workmen's compensation, the Committee considers it appropriate to examine Convention No. 17 (accidents) and No. 19 (equality of treatment) together.

Convention No. 17. Application of the Convention in practice. In its previous comments, the Committee hoped that the Government would make every effort to complete the reforms required to guarantee the protection afforded by the Convention to injured workers. The Committee notes the information provided by the Government in its report according to which, issues in the application of the Convention were due to the delayed implementation of the Occupational Accidents and Occupational Diseases Branch, established by the Social Security Code (Decree No. 13955 of 1963) but not yet established in practice. The Committee notes with **concern** that compensation in case of work-related accidents is still regulated by Legislative Decree No. 136 of 1983, which it has previously found not to be in compliance with the requirements of the Convention in many respects: *Article 2* – the necessity to make the above Legislative Decree applicable to apprentices; *Article 5* – the necessity to provide in the event of employment injury that the compensation shall be paid in the form of periodical payments to the injured worker or his or her dependants, provided that it may only be paid in the form of a lump sum where there are guarantees that it will be properly utilized; *Article 6* – the payments of compensation in case of temporary incapacity from the fifth day following the accident at the latest and throughout the duration of the invalidity, that is until the worker is cured, or up to the date of the commencement of the periodical payments for permanent incapacity; *Article 7* – necessity to provide additional compensation where the worker requires the constant help of another person; *Article 8* – provision for review of the periodical payments either automatically or at the request of the beneficiary in the event of a change in the condition of the worker; and *Article 11* – making provision for guarantees in the event of the insolvency of the insurer, inter alia. The Committee observes that, despite the comments it has been making for many years, the measures necessary to bring the national legislation into conformity with

the Convention have still not been taken. ***The Committee once again requests the Government to report on measures envisaged or taken with a view to giving full effect to the Convention, including measures related to the amendment of Legislative Decree No. 136 of 1983 and the implementation of the Occupational Accidents and Occupational Diseases branch of the Social Security Code.***

Article 1(1) and (2) of Convention No. 19. Equality of treatment for survivors. In its previous comments, the Committee recalled that, for many years, it has been drawing the Government's attention to the issue of the right of survivors of foreign workers, originating from a country party to Convention No. 19, to receive a pension even if they did not reside in Lebanon at the time of the accident causing the death of their breadwinner, and hoped that the new Labour Code would guarantee this right in law and practice and would not forestall the corresponding amendment of the legislation governing compensation for employment injuries, namely section 10 of Legislative Decree No. 136 of 1983 and sections 9(3), subparagraphs (2) and (4) of the Social Security Code. The Committee notes the Government's indication that it would be necessary to amend the relevant provisions in the Social Security Code once the Occupational Accidents and Occupational Diseases Branch is enacted to give effect to the Convention. ***Recalling that the Convention guarantees equality of treatment between the dependants of nationals and those of foreign workers from a country which has ratified the Convention without any requirement as to residence and irrespective of any reciprocity condition, the Committee once again requests the Government to take necessary measures to bring the national legislation in conformity with the Convention.***

The Committee has been informed that, based on the recommendations of the Standards Review Mechanism Tripartite Working Group (SRM tripartite working group), the Governing Body has decided that Member States for which Convention No. 17 is in force should be encouraged to ratify the more recent Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), or the Social Security (Minimum Standards) Convention, 1952 (No. 102), accepting its Part VI (see GB.328/LILS/2/1). Conventions Nos 102 and 121 reflect the more modern approach to employment injury benefits. ***The Committee therefore encourages the Government to follow up the Governing Body's decision at its 328th Session (October–November 2016) approving the recommendations of the SRM tripartite working group and to consider ratifying Conventions Nos 102 (Part VI) or 121 as the most up-to-date instruments in this subject area. The Committee reminds the Government of the possibility to avail itself of the technical assistance of the Office in this regard.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Libya

Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1975)

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1975)

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1975)

Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) (ratification: 1975)

Previous comment

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on social security, the Committee considers it appropriate to examine Conventions Nos 102 (Social Security (Minimum Standards)), 121 (Employment Injury Benefits) and 128 (Invalidity, Old-Age and Survivors' Benefits) together.

Article 65, 66 or 67, of Convention No. 102, Article 19 or 20 of Convention No. 121, Article 26, 27 or 28 of Convention No. 128. Review of the level of social security benefits. Since 2004, the Committee has been requesting the Government to take measures to give full effect to the provisions of the above-

mentioned Conventions, in law and in practice. In this regard, the Committee takes note of the indication by the Government in its report that the level of social security benefits provided in Libya in accordance with Law No. 16 of 1985 must not be less than the minimum wage, currently set in 450 dinars per month, and that pursuant to a Council of Ministers Decision No. 1 of 2021, a study is being conducted to evaluate the possibility of increasing the level of social security benefits up to a maximum of 800 dinars per month for low-income families. The Government also indicate its intent to request ILO's technical assistance in this regard. **The Committee requests the Government to: (i) indicate which are the benefits concerned by this evaluation; (ii) provide information on the findings and recommendations of the study; and (iii) supply information on any measure taken or envisaged to increase the level of benefits provided in application of Conventions Nos 102, 121 or 128, as the case may be, together with the statistical information necessary for the Committee to assess the conformity of the benefit levels with the requirements of the Conventions concerned. The Committee strongly encourages the Government to avail itself of ILO technical assistance.**

Application of Conventions Nos 102, 121 and 128 in law and in practice. Since 2004, the Committee has been requesting the Government to provide information on developments in respect of measures taken to give full effect to the provisions of the above-mentioned Conventions, including statistical data as to the coverage and adequacy of benefits provided by the Social Security Fund. **In order to be able to resume the examination of the pending technical issues under the above-mentioned Conventions, the Committee requests the Government to supply, without further delay, detailed statistical data and information in the manner provided by the report forms, particularly concerning information in conformity with Title I of Article 76 of the report form for Convention No. 102, Title V of Article 12 of the report form of Convention No. 118, Titles I to V of the Articles 13, 14, and 18, and Article 21 of the report form of Convention No. 121, Titles under Parts V and VII of the report form of Convention No. 128.**

Article 3(1) of Convention No. 118. Equality of treatment. For over 20 years, the Committee has found that several provisions of the national legislation are not in conformity with *Article 3(1)* of the Convention, since they establish different conditions and requirements for the entitlement of non-Libyan workers to social security benefits. The Committee recalls that this concerns, in particular:

- (i) section 38 of Social Security Act No. 13 of 1980 and Regulations 28–33 of the Social Pensions Regulations of 1981, which provide that non-Libyan workers receive a lump sum for premature termination of work, while nationals are guaranteed the maintenance of their wages or remuneration;
- (ii) sections 5(c) and 8(b) of the Social Security Act that, which do not provide for the compulsory affiliation of self-employed non-Libyan workers or those working in the public administration to the social security scheme;
- (iii) Regulation 16(2) and (3) and Regulation 95(3) of the Social Pensions Regulations, under which non-Libyan nationals who have not completed the minimum period of ten years of contributions to the social security scheme are not entitled to an old-age pension or to a pension for total incapacity due to a non-occupational injury, while Libyan workers are;
- (iv) Regulation 174(2) of the Social Pensions Regulations, under which the minimum qualifying period of ten years of contributions is also required for benefits due to survivors of a non-Libyan national, as opposed to Libyan nationals.

The Committee recalls that *Article 3(1)* of the Convention requires Member States for whom the Convention is in force to grant within their territory to the nationals of any other Member for which the Convention is in force equality of treatment under its legislation with its own nationals, both as regards coverage and as regards the right to benefits, in respect of every branch of social security for which it has accepted the obligations of the Convention. **Consequently, it urges the Government to make the**

necessary amendments to its national legislation, and in particular to the provisions mentioned above to ensure the full application, in law and in practice, of this Article.

Articles 5 and 10 of Convention No. 118. Payment of benefits abroad. The Committee notes that section 161 of the Social Pensions Regulations of 1981 expressly provides that pensions or other cash benefits may be transferred to beneficiaries resident abroad only where that is envisaged by agreements to which Libya is a party. The Committee recalls once more that, in accordance with *Article 5* of the Convention (read in conjunction with *Article 10*), each Member which has ratified the Convention must guarantee both to its own nationals and to the nationals of any other Member that has accepted the obligations of the Convention in respect of the branch in question, as well as to refugees and stateless persons, when they are resident abroad, the provision of invalidity benefits, old-age benefits, survivors' benefits, death grants and employment injury pensions. ***The Committee requests the Government to take the necessary measures to give effect to Articles 5 and 10 of the Convention by ensuring that pensions and cash benefits can be paid to workers and their survivors, including refugees and stateless persons, residing abroad regardless of the existence of bilateral agreements between Libya and the other Member State in which they reside.***

Netherlands

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1966)

Previous comment: [direct request](#)

The Committee notes the observations of the National Federation of Christian Trade Unions (CNV), the Netherlands Trade Union Confederation (FNV), and the Trade Union Federation for Professionals (VCP), received on 31 August 2021 and 31 August 2022 and requests the Government to provide its reply to them

Article 14 of the Convention. Minimum degree of loss of earning capacity. The Committee previously observed that a minimum degree of 35 per cent incapacity for the entitlement to the cash benefits under the Work and Income (Employment Capacity) Act of 2006 (WIA) was set too high to comply with *Article 14*. The Committee notes the indication by the Government in its report that the minimum degree of 35 per cent incapacity was set in an agreement with the trade unions and the employers' organizations. The Government further indicates that according to the financial assessments, the reduction of the minimum degree would lead to higher costs and entail major adjustments of the scheme which requires a complex and thorough analysis.

The Committee notes the observations of the CNV, the FNV, and the VCP indicating that: (1) for many years, they have been proposing that the minimum degree of incapacity should be lowered from 35 per cent to 15 per cent; (2) contrary to the original purpose of the WIA according to which persons with less than 35 per cent of incapacity were supposed to stay on the labour market, it appears in practice that the loss of 35 per cent capacity for work or less often constitutes an obstacle for employers to keep such workers; and (3) a substantial group of people fall outside the income protection provided under the WIA requiring the minimum degree of 35 per cent incapacity.

The Committee recalls that according to *Article 14* of the Convention, the degree of loss of earning capacity for which cash benefits become payable shall be prescribed in such a manner as to avoid hardship. The Committee further recalls that according to *Article 14* of the Convention, cash benefits in excess of such minimum degree may take the form of periodical payments or lump-sum payments if partial loss of earning capacity is not substantial. In this respect, the Committee previously observed that incapacity below 25 per cent could be regarded as not substantial and compensated by lump-sum payments, in line with Paragraph 10 of the Employment Injury Benefits Recommendation, 1964

(No. 121). The Committee also pointed out to the fact that, depending on the existence of other complementary income guarantees, lump-sum compensation had been considered by the Committee to be in compliance with the Convention in certain cases for incapacity up to 35 per cent. However, the WIA provides for neither periodic cash benefits, nor lump-sum payments in case of incapacity below 35 per cent.

While taking due note of the explanations provided by the Government, the Committee recalls its earlier position and analysis and is still of the opinion that the minimum degree of 35 per cent incapacity for the entitlement to cash benefits is not in compliance with the provisions of *Article 14* of the Convention. **The Committee urges the Government, without further delay, to take the necessary measures in full consultation with the most representative trade union and employers' organizations to bring the national legislation in line with Article 14 of the Convention by ensuring that persons with incapacity below 35 per cent are entitled to cash benefits in case of employment injury, and to report on the measures taken for that purpose.**

Article 14(2), in conjunction with Articles 6(c) and 22(1). Total loss of earning capacity likely to be permanent. The Committee previously observed that a person who is completely (at least 80 per cent) and permanently incapable for work shall be entitled to the benefits under the Income Provision for Persons with Full Occupational Disability Scheme (IVA benefits), as per section 47 of the WIA. The IVA benefit amounts for 75 per cent of the previous monthly wage but it is subject to reduction if a beneficiary earns an income (sections 51-52 of the WIA). In this respect, the Committee observes that the Convention does not authorize any reduction of cash benefits in case a fully incapacitated person earns additional income from any gainful occupation, leaving him or her free to combine invalidity benefit with work. The Committee recalls that according to *Article 6(c)* of the Convention, the definition of the contingency of total or partial loss of earning capacity likely to be permanent does not include actual suspension of earnings in comparison with, for example, the definition of temporary incapacity for work, as per *Article 6(b)* of the Convention. The Committee further recalls that the provisions of the WIA allowing the reduction of the IVA benefit in case a beneficiary earns income from a gainful occupation go beyond the requirements of *Article 22(1)* of the Convention which limits the grounds for suspension of benefits. **The Committee requests once again the Government to take the necessary measures, without further delay, to ensure that the IVA benefit is not subject to reduction when a beneficiary earns income from any gainful occupation, in line with Articles 14(2) and 22(1) of the Convention.**

Article 14(3), in conjunction with Article 9. Substantial partial loss of earning capacity likely to be permanent. (i) Entitlement conditions for the WGA wage-related benefit. The Committee previously noted that to be entitled to the benefits under the Resumption of Work for Persons with Partial Disability Scheme, WGA (WGA wage-related benefit), a person with incapacity for work of between 35–80 per cent was obligated to register as a jobseeker, make sufficient attempts to obtain suitable work, and accept an offer of such work (section 30 of the WIA). The entitlement to the WGA wage-related benefit depends on the insured being also entitled to unemployment benefit (section 58 of the WIA). Those not eligible for unemployment benefit can get the WGA wage supplement benefit or the WGA follow-up benefit (section 54(4) of the WIA).

The Committee recalls once again that subjecting the entitlement to the benefit to an obligation to make use of the remaining earning capacity is not foreseen by the Convention (*Articles 9 and 14(3)*). The Committee therefore considers that under the conditions prescribed by section 30 of the WIA, the WGA wage-related benefit is not in conformity with the requirements set out in the above-mentioned Articles of the Convention. **Considering that the WGA wage-related benefit shall not be subject to the conditions set out by section 30 of the WIA to be considered for the purpose of the application of the Convention, the Committee requests the Government to take the necessary measures to ensure the compliance of the entitlement conditions for the WGA wage-related benefit with Articles 9 and 14(3) of the Convention.**

(ii) *Qualifying period for the entitlement to the WGA wage-related benefit.* The Committee notes that the entitlement to the WGA wage-related benefit is subject to the qualifying period of employment for at least one working hour per calendar week in at least 26 calendar weeks (section 58 of the WIA). In this respect, the Committee recalls that under *Article 9(2)* of the Convention, eligibility for benefits may not be made subject to the length of employment, to the duration of insurance or to the payment of contributions. ***The Committee requests the Government to take the necessary measures to ensure that the entitlement to the WGA wage-related benefit is not subject to a requirement of completion of certain length of employment or the duration of insurance, in line with Article 9(2) of the Convention.***

(iii) *Duration of the WGA wage-related benefit.* The Committee notes that the WGA wage-related benefit is paid for at least three months and at most 24 months (section 59 of the WIA). It further observes that the duration of the WGA wage-related benefit is subject to the length of the previous employment period. In particular, one month of the payment of benefit is equal to one calendar year of employment (section 59 of the WIA). In this respect, the Committee recalls that the Convention does not permit the benefit to be affected by the length of employment and requires that the benefit is granted throughout the contingency (*Article 9(2) and (3)*). The Committee therefore considers that the WGA wage-related benefit may only be taken into account for the purpose of the application of the Convention in its minimum duration of three months. ***The Committee thus requests the Government to take the necessary measures to ensure the compliance of the duration of the WGA wage-related benefit with Article 9(2) and (3) of the Convention, should the Government wish to consider the WGA wage-related benefit beyond its minimum duration for the purpose of the application of the Convention.***

Article 14(3), in conjunction with Article 9. Substantial partial loss of earning capacity likely to be permanent. Entitlement to the WGA wage supplement benefit. The Committee previously noted that the WGA wage supplement benefit was provided after the payment of the WGA wage-related benefit, or in case a person was not entitled to the WGA wage-related benefit (section 60 of the WIA). The Committee further observed that the WGA wage supplement benefit was subject to the income requirement that a person partially capable of work must earn per calendar month an income from work which is at least equal to 50 per cent of his or her remaining earning capacity (section 60 of the WIA). The Committee recalls once again that the requirement to use the residual earning capacity as a condition for entitlement is not in conformity with the Convention, which guarantees entitlement to benefits at the prescribed level without regard to the residual earning capacity and additional income which could be earned by the workers with partial incapacity (*Articles 9 and 14(3)*). ***The Committee thus requests the Government to take the necessary measures to ensure the compliance of the entitlement conditions of the WGA wage supplement benefit with Articles 9 and 14(3) of the Convention, should the Government wish to consider the WGA wage supplement benefit for the purpose of the application of the Convention.***

Article 14(3), in conjunction with Article 19. Level of the WGA follow-up benefit. The Committee previously observed that the WGA follow-up benefit was a flat rate benefit calculated on the basis of the legal minimum wage and not as a percentage of the beneficiary's previous wage. The Committee, however, recalls that according to *Article 14(3)* of the Convention, the benefit for partial incapacity shall represent a suitable proportion of the benefit for total incapacity the level of which shall be at least of 60 per cent of the standard's beneficiary earnings (*Article 19 and Schedule II*). The Committee notes that the IVA benefit which is provided in case of total incapacity is determined as 75 per cent of the previous monthly wage (section 51 of the WIA). The Committee therefore considers that the WGA follow-up benefit does not represent a suitable proportion of the IVA benefit, particularly as regards persons with income above the legal minimum wage. ***The Committee requests the Government to take the necessary measures, without further delay, to ensure that the level of the WGA follow-up benefit is in line with the requirements of Articles 14(3) and 19 of the Convention.***

Based on the above, the Committee notes with **deep concern** that the cash benefits provided under the Work and Income (Employment Capacity) Act of 2006 (WIA) do not ensure the level of

protection set out in the Convention on a range of issues and that, despite its comments on the non-compliance of the provisions of the WIA since 2007, no change has been made to the national legislation to bring it in line with the requirements of the Convention. ***The Committee reminds the Government of the possibility to avail itself of ILO technical assistance in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2025.]

Nicaragua

Workmen's Compensation (Agriculture) Convention, 1921 (No. 12) (ratification: 1934)

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1934)

Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)
(ratification: 1934)

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
(ratification: 1934)

Sickness Insurance (Industry) Convention, 1927 (No. 24) (ratification: 1934)

Sickness Insurance (Agriculture) Convention, 1927 (No. 25) (ratification: 1934)

Previous comment

In order to provide an overview of matters relating to the application of the ratified Conventions on social security, the Committee considers it appropriate to examine the application of Conventions Nos 12, 17, 18, 19, 24 and 25 in a single comment.

Article 1 of Conventions Nos 12, 17, 18, 19, 24 and 25. In its previous comments, the Committee emphasized the need to extend the coverage of the social security system and requested the Government to provide information on the progress made in this regard. As the Government's report does not contain specific information on this subject, the Committee notes the information contained in the Statistical Yearbook 2020, published in February 2021 by the Nicaraguan Social Security Institute (INSS), which shows that the numbers of persons registered with the social security system have fallen constantly since 2016, with a reduction of 27 per cent in the number of insured persons as a proportion of the economically active population and 35 per cent as a proportion of the population that is actually employed. The total number of insured persons fell from 914,196 in 2017 to 714,465 in 2020 (page 328). The Committee also observes that the proportion of the population covered by sickness insurance has decreased, as has the number of newly insured persons, falling from 124,802 to 59,603 (page 327). Moreover, according to the continuous household survey, published by the National Development Institute of Nicaragua in April 2021, the informal employment rate was around 45 per cent. The Committee also observes that, according to the ILO Social Protection Platform, in 2021, only 14.5 per cent of the population was effectively covered by at least one social protection benefit.

The Committee expresses **concern** at the above statistics, which point to a constant reduction in social insurance rates and in the number of persons protected, and an accelerating increase in the informal employment rate. In this regard, the Committee draws the Government's attention to *Article 1 of Conventions Nos 12, 17, 18, 19, 24 and 25*, which guarantee the effective coverage and protection of workers and their families in the event of disease and accidents, whether occupational or of any other type. ***In light of the above, the Committee urges the Government to:***

- (i) ***provide comprehensive statistical data on the current coverage of the social security system, disaggregated by branch in the various sectors of activity (industry, agriculture,***

informal economy, etc.) in relation to the total number of workers, in accordance with the questions contained in the report forms for the various Conventions concerned; and

- (ii) indicate the priorities adopted for the progressive extension of the coverage of the social security system and the measures envisaged or adopted, including in export processing zones and the agricultural sector.*

Conclusions and recommendations of the Standards Review Mechanism. The Committee recalls the recommendations of the Tripartite Working Group of the Standards Review Mechanism (SRM), on the basis of which the Governing Body decided that Member States for which Conventions Nos 17, 18, 24 and 25 are still in force should be encouraged to ratify the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980 (No. 121), and the Social Security (Minimum Standards) Convention, 1952 (No. 102). **The Committee encourages the Government to give effect to the decision adopted by the Governing Body at its 328th Session (October-November 2016) and to consider the ratification of the most up-to-date social security instruments.**

The Committee recalls that the Government may avail itself of ILO technical assistance in this respect.

[The Government is asked to reply in full to the present comments in 2025.]

Norway

Social Security (Minimum Standards) Convention, 1952 (No. 102) (ratification: 1954)

Previous comment: [direct request](#)

Article 36(3) of the Convention, in conjunction with Article 72. Employment injury benefits for incapacity of less than 30 per cent. Following its previous comments, the Committee notes from the Government's report that persons with incapacity for work above 30 per cent due to employment injury are entitled to periodic cash benefits under the National Insurance Scheme. In addition, lump-sum payments for loss of future income and for non-economic losses (reduced quality of life) are provided to persons with incapacity for work, including those with incapacity below 30 per cent, under the mandatory Occupational Injury Insurance Scheme ("*yrkesskadeforsikringsloven*"), which is outside the framework of the National Insurance Scheme.

The Committee recalls that *Article 36(1) and (2)* of the Convention pursues the primary aim to ensure a permanent compensation, i.e. a periodical benefit in case of permanent total or partial loss of earning capacity caused by an employment injury. As an exception, *Article 36(3)(a)* of the Convention allows for the conversion of a periodical benefit into a lump-sum payment where the degree of incapacity is slight. The Committee has previously admitted incapacity below 30 per cent as a slight degree and allowed the conversion of periodical benefits into lump-sum payments which should bear an "equitable relationship" to the periodical payment otherwise due. In this respect, the Committee observes that the National Insurance Scheme does not provide any cash benefits in case of incapacity below 30 per cent. The Committee further observes that the compensation provided by the Occupational Injury Insurance Scheme constitutes a different additional payment, which is not made in lieu of a periodical payment otherwise due by the National Insurance Scheme, as in fact it bears no relationship to such a payment.

The Committee also recalls that according to *Article 72(1)* of the Convention, where the administration is not entrusted to an institution regulated by the public authorities or to a Government department responsible to a legislature, representatives of the persons protected shall participate in the management, or be associated therewith in a consultative capacity, under prescribed conditions. In this respect, the Committee observes from the information provided by the Government that the Occupational Injury Insurance Scheme is administered by private insurance companies. The Committee

however observes that the Occupational Injury Insurance Act of 1989 does not indicate whether and how representatives of the persons protected may participate in the management of the Occupational Injury Insurance Scheme.

The Committee further takes note of the statement by the Government that improving the Norwegian Occupational Injury Scheme is part of its political platform. The Government considers the question of whether the National Insurance Scheme should provide disability benefit in the event of occupational injuries when the degree of incapacity is lower than 30 per cent to be a natural part of this work, and this would include considering the question of whether a disability benefit granted at low degrees of incapacity should be commuted into a lump-sum.

In view of the above, the Committee firmly hopes that, in the course of the intended reform, the Government will take the necessary measures to give full effect to Article 36 of the Convention by reducing the minimum threshold for the payment of periodic cash benefits under the National Insurance Scheme below 30 per cent of incapacity, subject to the possibility of commuting such benefits into a lump sum.

The Committee is raising other matters in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 17** (Cabo Verde, Central African Republic, Myanmar); **Convention No. 18** (Niger); **Convention No. 19** (Cabo Verde, Lithuania, Myanmar, Nigeria); **Convention No. 42** (Myanmar, Netherlands: Sint Maarten); **Convention No. 102** (Benin, Cabo Verde, Chad, Costa Rica, Croatia, Cyprus, Czechia, Ecuador, Luxembourg, Netherlands, Niger, Norway, Russian Federation); **Convention No. 118** (Cabo Verde, Central African Republic, Ecuador, Netherlands: Sint Maarten); **Convention No. 121** (Croatia, Cyprus, Ecuador, Finland, Netherlands); **Convention No. 128** (Cyprus, Czechia, Ecuador, Finland, Netherlands, Norway); **Convention No. 130** (Czechia, Ecuador, Finland, Netherlands, Norway); **Convention No. 168** (Finland, Norway).

Maternity protection

Chile

Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1994)

Previous comment

The Committee notes with **regret** that the Government's report does not contain information in reply to its previous comments. The Committee therefore refers to its previous comments and once again addresses the following requests to the Government.

Article 4(3) of the Convention. Medical benefits. The Committee requests the Government to take the necessary measures to ensure the provision of medical benefits, including care during confinement, free-of-charge, and the freedom of choice of doctor and medical establishment, irrespective of income level or State contribution, for women in groups B (persons receiving the minimum wage), C and D (persons receiving income higher than the minimum wage).

Article 4(5). Social assistance benefits. The Committee requests the Government to adopt the necessary measures to ensure the provision of maternity benefits to women who fail to meet the conditions for eligibility set out in section 4 of Legislative Decree No. 44 of 1978, which specifies the requirement of six months contributions for eligibility for maternity benefits. For that purpose, the Committee invites the Government to consider the possibility of extending the coverage of the family subsidy and SUF Maternal benefits to these women, and requests the Government to provide information in this regard.

[The Government is asked to reply in full to the present comments in 2025.]

China

Hong Kong Special Administrative Region

Maternity Protection Convention, 1919 (No. 3) (notification: 1997)

Previous comment

Articles 3(c) and 4. Payment of maternity cash benefits and prohibition of dismissal during maternity leave. The Committee takes note of the information provided by the Government in reply to its previous comments, concerning the provision of maternity leave pay and maternity medical benefits to women workers who have been dismissed during maternity leave. It notes that, according to the Government, maternity leave pay is provided by employers to women who have been dismissed, unless it is proven by the employer that the dismissal was related to the workers' misconduct, as set out in section 9 of the Employment Ordinance. The Committee recalls that *Article 4* of the Convention affords full protection to women against dismissal during maternity-related leave.

The Committee observes that making employers directly liable for the costs of maternity benefits interrupts the provision of those benefits in case of unlawful termination of employment, and, therefore, may well lead to discrimination on the labour market. In allowing the dismissal of workers during maternity leave, section 9 of the Employment Ordinance is not only inconsistent with *Article 4*, but also with *Article 3(c)* of the Convention, once it results in the cessation of payment of maternity cash benefits to women for the full and healthy maintenance of herself and her child, which is not connected to the modality of possible dismissals during this period. **The Committee requests the Government to take the necessary measures to bring the national legislation into conformity with the Convention, by amending, as soon as possible, section 9 of the Employment Ordinance to expressly prohibit employers**

from giving notice of dismissal to their workers for whatever reason during maternity-related leave, and to guarantee that, during this period, maternity benefits will be provided.

The Committee is raising other matters in a request addressed directly to the Government.

Ecuador

Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1962)

Previous comment

Article 4(5) of the Convention. Women who fail to qualify for benefits. The Committee notes with **regret** that the Government's report does not provide any information in reply to its previous comments, which it has been making since 2011, concerning benefits paid out of social assistance funds for women who have not completed the minimum qualifying period or paid 12 uninterrupted monthly contributions in order to receive maternity benefits through the social security system. **The Committee requests the Government to indicate the measures taken or envisaged to ensure the payment of maternity benefits: (i) paid out of social assistance funds for women who are still not covered by the social security system; (ii) in the context of social assistance for women who do not meet the conditions established by the Social Security Act, and to indicate the type and the amount of benefits provided in these two settings.**

Article 4(4) and (8). Financing of maternity benefits. The Committee notes the Government's indication in its report that, under section 22 of the "General regulations on cash subsidies" (Resolution No. C.S. 318 of 1978), social security institutions and funds are partially responsible for cash maternity benefits and that the responsibility for paying these benefits is shared between employers (up to 25 per cent) and the Government (funded up to 75 per cent through social security). The Committee recalls that, under *Article 4(4) and (8)* of the Convention, the benefits shall be provided either by means of social insurance or through public funds. The Committee also recalls that the direct payment of maternity benefits by employers, even partially, imposes a financial burden on employers and may create a possible source of discrimination against women. **The Committee encourages the Government to analyse and consider the possibility of moving gradually from a hybrid system in which employers also bear part of the cost of cash maternity benefits to a system totally supported by social security, and to share the results of such analysis and consideration.**

[The Government is asked to reply in full to the present comments in 2025].

Libya

Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1975)

Previous comments

Article 3(2), (3) and (4) of the Convention. Maternity leave and cash benefits duration. In its previous comments, the Committee requested the Government to harmonize the legislative provisions governing maternity leave in the Labour Relations Act (No. 12) and maternity benefits in the Social Security Act (No. 13) to guarantee that maternity benefits were secured throughout the statutory duration of maternity leave, i.e. 14 weeks, in application of *Article 3* of the Convention. The Committee notes the information provided by the Government in this regard, according to which action had been taken by the Social Security Fund (letter No. 39 mim/ta'/2021 of 24 August 2021), to request the legislative authorities to address this issue by amending the Social Security Act. **The Committee hopes that the legislative amendments needed to ensure that maternity benefits are provided to women workers throughout the entire period of maternity leave, i.e. 14 weeks, will be enacted without further delay, and requests the Government to take the necessary measures for that purpose, to give full effect**

to Article 3(2), (3) and (4) of the Convention. The Committee further requests the Government to provide the text of the relevant legislative provisions once adopted.

Article 4(4) and (8). Cash benefits. The Committee notes the indication provided by the Government, in reply to its previous request, that the establishment of a separate maternity branch within the social security system was accepted and that the Social Security Fund would be informed about such changes. **The Committee welcomes this development and hopes that the measures necessary to give effect to Article 4(4) and (8), will be taken without further delay, with a view to ensuring the provision of cash and medical benefits by means of compulsory social insurance or by means of public funds, and to ensure that employers are not individually liable for the cost of maternity benefits. The Committee requests the Government to provide information on the legislative provisions and other measures taken for this purpose.**

Article 6. Employment protection. In its previous comments, the Committee requested the Government to amend the Labour Relations Act (No. 12) to ensure that it would be prohibited to give notice of dismissal or terminate the employment relationship during maternity leave and any supplementary leave granted in case of illness medically certified as arising out of pregnancy or childbirth, as well as at such a time that the notice would expire during such absence. The Committee takes note of the information provided by the Government that the Labour Relations Act would address issues related to maternity leave, pregnancy and breastfeeding complications. The Committee notes, however, that section 25 of the Labour Relations Act, which allows for notice of dismissal and termination of employment relationships during pregnancy or maternity leave in cases when there is a justifiable reason not related to pregnancy or maternity, has not been amended and, that it is still not fully compliant with Article 6 of the Convention, which does not allow for such exceptions. **The Committee therefore hopes the Government will shortly enact amendments to section 25 of the Labour Relations Act, ensuring that the national legislation expressly prohibits employers from giving notice of dismissal to workers during pregnancy or maternity related leave. The Committee further requests the Government to provide the text of the legislative provisions to that effect.**

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2025.]

Netherlands

Maternity Protection Convention, 2000 (No. 183) (ratification: 2009)

Previous comment

The Committee notes the observations of the National Federation of Christian Trade Unions (CNV) and the Netherlands Trade Union Confederation (FNV) communicated with the Government's report.

Article 9(1) of the Convention. Discrimination in employment, including access to employment. With respect to its previous request to take measures to effectively tackle the problems of application in practice of the prohibition of discrimination based on maternity, the Committee takes note of the adoption in 2017 of the Action Plan against Pregnancy Discrimination, which aims to strengthen labour inspections, increase pregnant women's knowledge and awareness of their rights, and increase the willingness to report cases of pregnancy discrimination. According to the Government, the measures taken under the Action Plan against Pregnancy Discrimination included the launch by the Netherlands Institute for Human Rights of a hotline to report cases of discrimination and conduct of the anti-discrimination campaign in the labour market. The Government further indicates that, pursuant to the 2020 report of the Netherlands Institute for Human Rights on the impact of pregnancy and parenthood on women's employment opportunities, the incidence of pregnancy discrimination is persistent. In this respect, the Committee notes the observations of the CNV and the FNV indicating that 43 per cent of

pregnant women experience some form of discrimination and that women in temporary employment are particularly vulnerable to the discriminatory treatment. While acknowledging the efforts undertaken by the Government under the Action Plan against Pregnancy Discrimination of 2017, the CNV and the FNV allege the lack of sanctions imposed on employers for discrimination on the grounds of pregnancy and maternity. ***The Committee requests the Government to continue to take measures to ensure that maternity does not constitute a source of discrimination in employment, pursuant to Article 9 of the Convention. The Committee further requests the Government to provide information on the impact of the Action Plan against Pregnancy Discrimination of 2017 in reducing discrimination in employment on the ground of maternity. It also requests the Government to provide detailed information on the number of cases involving discrimination in employment based on maternity detected by or reported to labour inspectors or the courts, as well as the sanctions imposed on employers and remedies provided to victims.***

The Committee is raising other matters in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 3** (Cameroon, Central African Republic, China: Hong Kong Special Administrative Region, Côte d'Ivoire, Nicaragua, North Macedonia); **Convention No. 103** (Libya, Tajikistan); **Convention No. 183** (Czechia, Lithuania, Netherlands, Niger, North Macedonia, Norway, Sao Tome and Principe).

Social policy

Dominica

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1983)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 6 of the Convention. Legislation giving effect to the Convention. The Committee notes that the Government has never supplied any information of a practical nature concerning the application of the Convention. **It would therefore be grateful if the Government would collect and transmit together with its next report up-to-date information on the average number of public contracts granted annually and the approximate number of workers engaged in their execution, extracts from inspection reports showing cases where payments have been retained, contracts have been cancelled or contractors have been excluded from public tendering for breach of the Fair Wages Rules, as well as any other particulars which would enable the Committee to have a clear understanding of the manner in which the Convention is applied in practice.**

Moreover, the Committee understands that the Government has entered into a World Bank-financed technical assistance project for growth and social protection with a view to improving, among other things, the transparent operation and the efficient management of public procurement. **In this connection, the Committee would appreciate receiving additional information on the implementation of this project and the results obtained, in particular as regards any amendments introduced or envisaged to public procurement laws and regulations which might affect the application of the Convention.**

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Egypt

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1960)

Previous comment

Article 2 of the Convention. Insertion of labour clauses in public contracts. The Committee notes the information provided by the Government regarding amendments to the Financial and Administrative Regulation (Ministerial Decision No. 162 of 2019) for the employment and protection of informal workers (contractors, agricultural, seasonal and temporary workers and similar) and Act No. 182 of 2018 on Agreements Concluded by Public Entities, which regulates the conclusion of public contracts. The Government refers in its report to sections 21, 29 and 32 of Ministerial Decision No. 162 of 2019 regulating the wages and conditions of work of informal workers, as well as to section 32 of the [Labour Code](#), No. 12 of 2003 regarding the terms and conditions of employment contracts for all workers (wages, hours of work, etc.). The Committee nevertheless notes that none of the above-mentioned legislation contains any provisions ensuring the application of the core requirement of the Convention, namely the insertion in public contracts of labour clauses of the type prescribed by *Article 2*. In this regard, the Committee refers to its 2009 [comments on the application of the Convention](#), in which it noted the concrete steps taken by the Government of Egypt to give effect to the core requirement of the Convention under General Circular No. 8 issued by the Minister of Finance (23 June 2008). That Circular added two new bidding terms to the Public Tenders Law (No. 89/1998), stipulating that: (i) workers engaged in the execution of the (public) contract must receive wages and bonuses not lower than those received by workers carrying out similar work in the same governorate; and (ii) they must

enjoy the same working hours and conditions prevailing in the region, according to a general agreement or custom. **Noting the Government's expressed commitment to take the necessary measures to ensure the full application of the Convention, the Committee reiterates its hope that the necessary measures will be taken by the Ministry of Manpower and Migration to ensure that the two bidding terms set out in the General Circular No. 8 of 2008 will be incorporated as standard clauses into all future public procurement contracts. The Committee requests the Government to communicate, together with its next report, copies of standard bidding documents currently in use, sample tender letters and concession agreements used in public procurement procedures, to enable the Committee to more fully appreciate and assess the manner in which the Convention is implemented in both law and practice. The Committee reminds the Government that it may avail itself of technical assistance in this regard.**

Malaysia

Sarawak

Labour Clauses (Public Contracts) Convention, 1949 (No. 94)

Previous comment

Article 2 of the Convention. Insertion of labour clauses in public contracts. In its previous comments, initially made in 2013, the Committee requested the Government to indicate the measures it intended to take to bring its national legislation into full conformity with the requirements of the Convention. The Government reports that the provisions of the Convention are given effect through the general terms of contracts issued by the Public Works Department, which is the main implementer of public projects in Sarawak. It adds that the contracts specify, among other things, the engagement of workers and labour, the removal of workers and other personnel, days and hours of work and insurance for workers. The Government further indicates that requirements governing the payment of wages, hours of work and other working conditions are provided under the Labour Ordinance of Sarawak (Amendment) Act 2005. The Committee notes that the Labour Ordinance does not address public contracts and that the Government does not provide specific information regarding the manner in which *Article 2* of the Convention is given effect. In this respect, the Committee draws the Government's attention to paragraph 45 of the [2008 General Survey on labour clauses in public contracts](#), in which it pointed out that the essential purpose of the Convention is to ensure that workers employed under public contracts shall enjoy the same conditions as workers whose conditions of employment are fixed not only by national legislation but also by collective agreements or arbitration awards, and that in many cases the provisions of the national legislation respecting wages, hours of work and other conditions of employment provide merely for minimum standards which may be exceeded by collective agreements. Therefore, the Committee emphasized that the mere fact of the national legislation being applicable to all workers does not release the States which have ratified the Convention from the obligation to take the necessary steps to ensure that public contracts contain the labour clauses specified in *Article 2* of the Convention. **Recalling that it has been commenting for a number of years on the Government's failure to fully implement the core requirements of the Convention, the Committee reiterates its request that the Government clarify whether the public procurement legislation currently in force addresses in any manner the question of labour clauses in public contract. The Committee urges the Government to take all necessary measures without delay to bring its national legislation into full conformity with Article 2 of the Convention. It further requests the Government to keep the Office informed of progress made and recalls that the Government may avail itself of the technical assistance of the ILO in this regard, should it wish to do so.**

Application of the Convention. Part V of the report form. **The Committee requests the Government to provide a detailed report with full particulars on each of the provisions of the Convention, to enable**

the Office to assess the extent to which the provisions of the Convention are applied in law and practice, and to transmit copies of any relevant bidding documents currently in use.

Uruguay

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1954)

Previous comment

Article 2 of the Convention. Inclusion of labour clauses in public contracts. For over 14 years, the Committee has been requesting the Government to take the necessary measures to ensure that the scope of the provisions of Decree No. 475/005 on public contracts for services is extended to cover all types of public contracts envisaged by the Convention. Equally, since 2012, the Committee has been requesting the Government to amend Act No. 18.098 to bring it into full compliance with the requirements of *Article 2* of the Convention, as it only requires compliance with wage rates fixed by wage boards, and not with the more favourable conditions (including working hours, holidays, and sick leave) provided for in legislation, collective agreements, or arbitration awards, in conformity with the Convention.

The Committee notes that the Government once again refers, with reference to public works contracts, to Decree No. 257/015, approving the single document setting out the regulations and general conditions of public works contracts. Section 38, on compliance with the single document labour legislation, establishes that the contractor shall comply with the legislation and regulations on risk prevention applicable to the work undertaken. In particular, the contractor is required to: respect the wage rates fixed by the wage boards; hold valid insurance for occupational accidents and diseases for workers; and comply with the provisions of Acts Nos 18.099 of 24 January 2007 and 18.251 of 6 January 2008 on occupational liability in enterprise decentralization processes. The Committee notes that section 5 of Act No. 18.099 provides that “workers supplied by temporary employment enterprises shall receive benefits no less favourable than those fixed by wage boards, collective agreements or executive decree, according to their category and in concordance with the area of activity of the enterprise by which they are employed”. The Committee notes, however, that this provision is applicable only to workers supplied by temporary employment enterprises. The Government also indicates that the above-mentioned section is included in the standard documents produced, and placed at the disposal of institutions, by the Regulatory Agency for State Procurement (ARCE). In this connection, the Government gives the example of the Framework Agreement, Proclamation and Consulting Contract.

Regarding supply and service contracts, the Government refers to the single document setting out the regulations and general conditions of supply and non-personal service contracts (Decree No. 131/014). The Government indicates that although the said single document does not include clauses on compliance with labour, social insurance, and occupational safety obligations, it is governed by the regulations in force, in particular Acts Nos 18.099 and 18.251. In this regard, the Committee recalls that the mere application of general labour law is not sufficient to guarantee the application of the Convention. The Convention requires bidders to be informed in advance, by means of standard labour clauses included in tender documents, that, if selected, they would have to observe in the performance of the contract wages and other labour conditions not less favourable than the highest minimum standards established locally by law, arbitration or collective bargaining ([A practical guide to Convention No. 94](#), pages 15 and 20). Lastly, the Committee notes the adoption of Act No. 19.889 of 9 July 2020, which introduces sections 329 to 339 of the Labour Code, on the establishment of the Regulatory Agency for State Procurement (ARCE). The Agency’s mandate includes: providing advice on matters related to procurement or contracts involving the expenditure of public funds; and the completion, in specific circumstances, of the administrative contracting procedures for the acquisition of goods and services, in compliance with the regulations in force. ***The Committee once again points***

out that it has been commenting for a number of years on the fact that the Government has not given effect to the Convention. In this regard, it recalls that the inclusion of the labour clauses identified in Article 2 of the Convention in all contracts concluded by the public authorities covered by the Convention, does not necessarily require the enactment of new legislation, but can also be achieved through administrative instructions or circulars. The Committee hopes that the Government will adopt without delay all the necessary measures to bring its national legislation into full conformity with the fundamental requirements of the Convention. The Committee requests the Government to keep it informed of the progress achieved and again recalls that the Government may, if it so wishes, avail itself of ILO technical assistance in this respect.

Bolivarian Republic of Venezuela

Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (ratification: 1983)

[Previous comment](#)

The Committee notes the observations of the Confederation of Workers of Venezuela (CTV), the Federation of University Teachers' Associations of Venezuela (FAPUV), the Independent Trade Union Alliance of Workers (CTASI), as well as those of the Bolivarian Socialist Confederation of Men and Women Workers in Urban and Rural Areas and Fishing of Venezuela (CBST-CCP), received together with the Government's report. The Committee also notes the observations of the National Union of State and Public Service Workers (UNETE), received on 5 September 2022. **The Committee requests the Government to provide its comments in this respect.**

Parts I and II of the Convention. Improvement of standards of living. The Committee notes the information provided by the Government on the measures adopted in respect of food security, housing and healthcare, including access to medicines. The Government recalls the creation in 2004 of the People's Ministry for Food (MINPPAL) to guarantee supply to the population and access to the food basket through the formulation, implementation, follow-up and assessment of policies for commerce, industry, merchandise and food distribution. The Government also reports that the Food Production and Distribution Company (PDVAL) has been affiliated to MINPPAL since July 2008, with a view to providing foodstuffs and basic products. Since 2016, the Local Supply and Production Committees (CLAPs) ensure the distribution and commercialization of food and products of prime necessity. The Government also refers to the holding of various fairs with the aim of ensuring that the population has access to animal and fish protein. With regard to housing, the Government again refers to the implementation since 2011 of the "Major Mission for Housing in Venezuela", which aims to construct 5 million decent dwellings. In this connection, the Government reports that production at the PetroCasa enterprise has been relaunched, with a view to ensuring the supply of materials for the construction of new housing. Moreover, the modalities for access to financial resources of that Mission have been widened, in particular through credits (the "Manage your credit" programme) and new financial instruments (the "Invest, save and build your own home" programme). The Government also refers to the "New Neighbourhood, Tricolour Neighbourhood" mission, the goal of which is to provide decent housing for families in high risk or high vulnerability areas, through the rehabilitation or replacement of housing, in collaboration with communities. The Government reports that as of June 2022, a total of 4,100,000 dwellings had been delivered under the Major Mission and, through the New Neighbourhood, Tricolour Neighbourhood programme, 1,923,458 dwellings had been rehabilitated and 1,221,145 land titles had been granted. On another matter, the Committee notes the Government's indication that access to health is ensured for the entire population via the 593 Areas of Integrated Community Health (ASIC). The Government also refers to the "Within the Neighbourhood Mission", which provides medical care to low-income neighbourhoods. The Community Pharmacies were set up in 2019, with the goal of ensuring free access to medicines to all sectors of the population, in partnership with the Social

Pharmacy Network “FarmaPatria”. The Community Pharmacies guarantee access to pharmaceuticals in a timely, effective and controlled manner, especially for persons suffering from chronic diseases. The Government adds that the Mobile Community Pharmacies programme brings medicines and basic necessities to municipalities and parishes and also promotes health prevention campaigns. In this connection, the Committee notes that the CBST-CCP, in its observations, indicates that COVID-19 vaccines have been administered to 95 per cent of the population of the country. Finally, the Government indicates that between 2018 and 2022 a total of 4,039 retirements and 1,629 pensions were granted. The Committee also notes the information provided by the CBST-CCP in respect of the clauses on paid social benefits included in collective agreements signed in the university, educational and petrol sectors by affiliated trade unions and federations.

Nevertheless, the Committee once again expresses **deep concern** regarding the worsening living conditions of the Venezuelan population, which the CTV, the FAPUV, the CTASI and the UNETE denounce in their observations. The workers’ organizations particularly criticize the social food programmes implemented by the Government for serious defects in terms of their planning, management and assessment. The CTV, the FAPUV and the CTASI indicate that the distribution of foodstuffs, carried out through the CLAPs, is not universal in coverage and they maintain that the quantities have been reduced so that they currently supply only 17 per cent of the nutritional requirements of the population. Equally, the UNETE denounces acts of corruption in the distribution of food. The CTV, the FAPUV, the CTASI and the UNETE stress that, as a result of the expropriation of the agri-food enterprises by the Government (these enterprises represented 80 per cent of national food production), they have been abandoned or have become non-operational. This has resulted in thousands of workers losing their jobs and has increased the food sector’s dependence on imports, which amount to 82 per cent of food in the country. In the same manner, the CTV, the FAPUV and the CTASI indicate that, according to a February 2020 report on food security by the World Food Programme (WFP), one in three Venezuelans is in a situation of food insecurity and needs humanitarian aid. According to the same report, approximately nine million Venezuelans have insufficient income to purchase the basic basket of goods. They add that, as a result of this, and due to the deficiencies of the CLAP food distribution, 60 per cent of the population have had to reduce the quantity of their meals, 24 per cent are in a situation of moderate food insecurity and 7.9 per cent are in a situation of serious food insecurity. The CTV, the FAPUV and the CTASI affirm that the situation of children is even more alarming, stating that, according to certain figures provided by Caritas in October 2020, a total of 73 per cent of children under five years of age were suffering from malnutrition.

Regarding access to health, the CTV, the FAPUV and the CTASI indicate that, according to the 2021 Global Health Security Index, Venezuela occupies the worst position in Latin America for health capacity and is ranked among the ten worst countries in the world. The CTV, the FAPUV, the CTASI and the UNETE all denounce the scarcity and high cost of medicines and the precarious conditions of work of health workers, especially in respect of safety and health, which were clearly shown and greatly worsened during the COVID-19 pandemic. The UNETE further denounces cases of persecutions, disappearances and assassinations of health workers.

The Committee also notes that the CTV, the FAPUV and the CTASI indicate that, as of 24 August 2021, the minimum wage was situated between US\$0.5 and 0.6 per day, far below the minimum income considered as extreme poverty (US\$1.90 per day). The worker organizations stress, referring to data from the National Survey of Living Conditions (ENCOVI) as a basis, that extreme poverty in Venezuela increased from 67.7 per cent to 76.6 per cent between 2019 and 2021. They point out that the situation was worsened by the COVID-19 pandemic. Furthermore, the UNETE denounces the wage cuts and less favourable work and contractual benefits for workers in the public administration. The CTV, the FAPUV and the CTASI also point to difficulties faced by regime opponents in gaining access to employment, as well as dismissals and other anti-trade union practices, including criminal prosecutions against trade union leaders in the public sector.

Finally, the Committee notes that the CTV, the FAPUV, the CTASI and the UNETE stress that the political, economic and social condition of the country has led to the exile of more than 6 million citizens, fleeing extreme poverty. They underline that this is the greatest human exodus in Latin America and the second greatest in the world. In this regard, the CTV, the FAPUV and the CTASI indicate that the International Organisation for Migration (IOM) and the United Nations Agency for Refugees (UNHCR) estimated that, as of June 2020, there were 5,082,170 Venezuelan migrants, refugees and asylum seekers. The UNETE denounces the disintegration of many families as a consequence of this situation. ***The Committee refers to its comments regarding the application of the Employment Policy Convention, 1964 (No. 122), the Paid Educational Leave Convention, 1974 (No. 140), and the Human Resources Development Convention, 1975 (No. 142), in respect of the present Convention, and urges the Government to provide detailed and updated information in its next report on the application of the provisions of the Convention in practice, in particular with regard to the impact of the measures taken to improve the quality of life of the whole population. The Committee also requests the Government to indicate the manner in which such measures are guaranteed to take account of essential family needs, such as food and its nutritional value, housing, clothing and medical care, and access to medicines and education.***

Part III. Migrant workers. The Committee notes that, in its concluding observations of 4 October 2022, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) expressed concern regarding the situation of indigenous peoples living in border districts between Venezuela, Colombia and Brazil, who regularly cross the border for work. The CMW indicated in its observations that such indigenous migrant workers were especially vulnerable and in danger of abuse, forced labour, trafficking in persons and debt slavery. Indigenous migrant workers in the mining and agricultural sectors were particularly at risk. The CMW expressed special concern at the situation of the indigenous Yukpas, Wayuu, Warao, Pemones, Bari and Yanomami peoples (CMW/C/VEN/CO/1, paragraph 48). ***The Committee urges the Government to send detailed and updated information without delay on the measures adopted or envisaged with a view to guaranteeing the conditions of work of migrant workers obliged to live away from their homes, taking account of their normal family needs (Article 6). In particular, the Committee urgently requests the Government to provide information on the impact of these measures in respect of migrant workers coming from the Yukpas, Wayuu, Warao, Pemones, Bari and Yanomami indigenous peoples.***

Part IV. Remuneration of workers. Advances on wages. For 13 years, the Committee has been asking the Government to provide specific examples of court or administrative decisions that address the maximum amount and manner of repayment of advances on wages. The Committee observes that once again the Government has not provided the requested examples and restricts itself to referring once more to section 91 of the Constitution of the Bolivarian Republic of Venezuela and to section 103 of the Basic Act concerning labour and men and women workers (LOTTT) which establishes that wages cannot be seized. The Government also reiterates that, under section 154 of the LOTTT, "... the debts that men and women workers agree with their employer shall only be repayable, on a weekly or monthly basis, in amounts that may not exceed one third of the equivalent of a week or month of work, as appropriate". The Government also reiterates that debts are repaid, but not advances on social benefits granted to cover the basic needs of housing, education and health, which can reach up to 75 per cent of their salaries. ***The Committee therefore expects that, in its next report, the Government will provide specific examples of court or administrative decisions that address the maximum amount and manner of repayment of advances on wages.***

Yemen

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1969)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2 of the Convention. Insertion of labour clauses in public contracts. The Government reports that a draft Labour Code has been prepared in coordination with the ILO, and that it is in compliance with international labour standards. The Government adds that issues raised in the Committee's previous comments with regard to the insertion of labour clauses in public contracts as prescribed by *Article 2* of the Convention will be brought to the attention of the Supreme Commission on Auctions and Bids. The Committee notes the Government's indication that it requires the technical assistance of the ILO in relation to the measures to be taken to ensure that all public contracts contain labour clauses that comply with the provisions of the Convention. ***The Committee once again requests the Government to take the necessary measures to ensure that all public contracts contain labour clauses and hopes that the Government will be soon in a position to report progress in giving full effect to this core requirement of the Convention. The Committee encourages the Government to avail itself of the technical assistance of the Office in this regard.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 82** (France: French Polynesia, France: New Caledonia, United Kingdom of Great Britain and Northern Ireland: British Virgin Islands, United Kingdom of Great Britain and Northern Ireland: Falkland Islands (Malvinas)); **Convention No. 94** (Costa Rica, Eswatini, Finland, France: French Polynesia, Netherlands: Sint Maarten, United Kingdom of Great Britain and Northern Ireland: British Virgin Islands, Uganda); **Convention No. 117** (Central African Republic, Costa Rica, Ecuador, Ukraine).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 94** (Cuba, Denmark); **Convention No. 117** (Romania).

Migrant workers

Benin

Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) (ratification: 1980)

Previous comment

Article 14(a) of the Convention. Restrictions concerning employment and geographical mobility within the country. The Committee notes that the Government states, once again, that although Decree No. 77-45 of 4 March 1977, regulating the movement of foreign nationals, subjects foreign workers to special authorization to leave their town of residence in Benin, the Decree is in fact no longer applied and that in practice foreign nationals can move freely throughout the national territory. ***The Committee again urges the Government to take the necessary measures to formally repeal the restriction on the movement of migrant workers provided under Decree No. 77-45 of 4 March 1977, and also to indicate the obstacles to the repeal of the said Decree.***

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2024.]

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 97** (Brazil, Morocco, Philippines, Serbia, Slovenia); **Convention No. 143** (Benin, Madagascar, Philippines, San Marino, Serbia, Slovenia).

Seafarers

Albania

Maritime Labour Convention, 2006, as amended (MLC, 2006) (ratification: 2016)

The Committee notes with **deep regret** that the Government has failed to submit its first report on the application of the Convention for the fourth consecutive year even if it has benefited from the technical assistance provided by the Office for the elaboration of a gap analysis and through participation in courses on reporting provided by the ILO Training Centre. As the requested report was not received, the Committee examined the application of the Convention on the basis of publicly available information.

Article I of the Convention. General questions on application. Implementing measures. The Committee notes that, while ratification of the Convention gives the force of law to its terms in Albania, relevant regulations still need to be adopted to implement the Convention. **The Committee requests the Government to adopt without further delay the necessary measures to give effect to the provisions of the Convention and to provide information on any developments in this regard. It further requests the Government to supply copies in English of the relevant legislation, or a summary of the relevant provisions thereof, as well as full information on the implementation of the Convention, including updated statistics on the number of seafarers who are nationals or residents of Albania or who work on board ships flying the Albanian flag.**

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2023.]

Congo

Maritime Labour Convention, 2006, as amended (MLC, 2006) (ratification: 2014)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes with **deep regret** that the Government has failed to submit its first report on the application of the Convention for the fourth consecutive year. As the requested report was not received, the Committee examined the application of the Convention on the basis of publicly available information.

Article I. General questions on application. Implementing measures. The Committee notes that the provisions of the Convention are mainly implemented by Act No. 30-63 of 4 July 1963 issuing the Merchant Shipping Code, amended by Act No. 63-65 of 30 December 1965; by orders and decrees of the Ministry of Transport, Civil Aviation and Merchant Shipping; and by Regulation No. 08/12-UEAC-088-CM-23 of the Central African Economic and Monetary Community (CEMAC) adopting the Community Merchant Shipping Code of 22 July 2012 (CCMM), which is directly applicable in the Congo and is one of the documents that must be carried on board ships flying the Congolese flag and foreign ships operating in Congolese territorial waters. The Committee also notes that the Labour Code does not exclude seafarers from its scope of application. Having reviewed the available information, the Committee notes the inconsistency between certain national provisions and between these and the CCMM, as well as the absence of available information on the implementation of several provisions of the Convention. The Committee underscores the need to avoid any inconsistency in the applicable provisions. It recalls that, in accordance with *Article I* of the Convention, each Member which ratifies the Convention undertakes to give full effect to its provisions in order to secure the right of all seafarers to decent employment. **The Committee therefore requests the Government to adopt without delay the necessary measures to implement the Convention, taking into account the matters raised in the request addressed directly to the Government. It further requests the Government to provide a copy of any legislative texts or other regulatory instruments once adopted, as well as full information on the implementation of the Convention, including updated statistics on the number of seafarers who are**

nationals or residents of the Congo or who work on board ships flying the Congolese flag. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Dominica

Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) (ratification: 2004)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments. The Committee informs the Government that, if it has not supplied replies to the points raised by 1 September 2023, then it may proceed with the examination of the application of the Convention on the basis of the information at its disposal at its next session.

Article 2 of the Convention. Implementing legislation. The Committee notes the Government's indication that a special Tripartite Committee has been appointed to advise the Government on all matters relating to legislation and institutional changes necessary for the ratification of the Maritime Labour Convention, 2006 (MLC, 2006). It also notes that a National Action Plan has been prepared in order to formulate recommendations to the Government on matters of maritime laws and administration. While welcoming the Government's active steps towards the ratification of the MLC, 2006, the Committee is bound to observe that the Government's first report on the application of Convention No. 147 does not contain any information on the laws or regulations and other measures giving effect to the specific requirements of the latter Convention. ***The Committee therefore requests the Government to indicate in detail how each of the Articles of the Convention is applied in national law and practice, and explain in particular in what manner the provisions of the International Maritime Act, 2002, and of the Dominica Maritime Regulations, 2002, are substantially equivalent to the Conventions mentioned in the Appendix of the Convention relating to safety standards, social security measures and shipboard conditions of employment and shipboard living arrangements, as required under Article 2 of the Convention.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Gabon

Maritime Labour Convention, 2006, as amended (MLC, 2006) (ratification: 2014)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes with **deep regret** that the Government has failed to submit its first report on the application of the Convention for the fourth consecutive year. As the requested report has not been received, the Committee examined the application of the Convention on the basis of publicly available information.

Article I. General questions on application. Implementing measures. The Committee notes that the provisions of the Convention are mainly implemented through Regulation No. 08/12-UEAC-088-CM-23 of the Central African Economic and Monetary Community (CEMAC) issuing the Community Merchant Shipping Code of 22 July 2012 (hereinafter, CCMM), which is directly applicable to Gabon and is one of the documents that must be carried on board ships flying the Gabonese flag and foreign ships operating in Gabonese territorial waters. The Committee also notes that section 1 of the Labour Code does not exclude seafarers from its scope of application. The Committee notes the lack of available information on the implementation of several provisions of the Convention. It recalls that, in conformity with *Article I* of the Convention, each Member which ratifies it undertakes to give complete effect to its provisions in order to secure the right of all seafarers to decent employment. ***The Committee therefore requests the Government to adopt without delay the necessary measures to implement the Convention, taking into account the matters raised in the request addressed directly to the Government. It further requests the Government to provide a copy of any***

legislative texts or other regulatory instruments once adopted, as well as full information on the implementation of the Convention, including updated statistics on the number of seafarers who are nationals or residents of Gabon or who work on ships that fly the Gabonese flag. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Mauritius

Seafarers' Identity Documents Convention, 1958 (No. 108) (ratification: 1969)

Previous comment

Article 2 of the Convention. Seafarers' identity documents. In its previous observation, noting the Government's statement that the basic requirements of the Convention were still not implemented in law or practice, the Committee urged the Government to take the necessary steps to ensure compliance with the Convention. The Committee notes the Government's indication in its report that the process for the issuance of seafarers' identity documents (SIDs) resumed in 2016. The Ministry of Blue Economy, Marine Resources, Fisheries and Shipping is currently working on the review of the "Continuous Discharge Book" and is exploring the possibility of incorporating the features laid down in the Convention in the new format of the "Continuous Discharge Book". The Committee recalls that it has been expressing concerns for a number of years regarding the discontinuation of the issuance of SIDs, which is a serious failure on the part of the Government in implementing the Convention. ***The Committee therefore urges once again the Government to take the necessary steps to ensure that its obligations under the Convention are fully respected and to provide a specimen (not a copy) of the seafarers' identity document once it has been issued.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 22** (Mauritania, Netherlands: Aruba); **Convention No. 23** (Mauritania, Netherlands: Aruba); **Convention No. 68** (Equatorial Guinea); **Convention No. 69** (Netherlands: Aruba); **Convention No. 71** (Djibouti); **Convention No. 92** (Equatorial Guinea, Republic of Moldova); **Convention No. 108** (Latvia, Liberia, Saint Lucia); **Convention No. 133** (Republic of Moldova); **Convention No. 146** (Netherlands: Aruba); **Convention No. 147** (Dominica, Netherlands: Aruba); **Convention No. 185** (Congo, Madagascar, Marshall Islands, Montenegro, Nigeria, Republic of Moldova, Tunisia); **MLC, 2006** (Albania, Argentina, Bangladesh, Brazil, Cabo Verde, Congo, Djibouti, Ethiopia, Gabon, Gambia, Ghana, Iceland, India, Kenya, Kiribati, Latvia, Liberia, Malta, Marshall Islands, Morocco, Netherlands: Curaçao, New Zealand, Nicaragua, Samoa, Slovakia, Tunisia, Tuvalu, United Kingdom of Great Britain and Northern Ireland: British Virgin Islands, United Republic of Tanzania).

Fishers

Congo

Work in Fishing Convention, 2007 (No. 188) (ratification: 2014)

The Committee notes with **deep regret** that the Government has failed to submit its first report on the application of the Convention for the fifth consecutive year. As the requested report was not received, the Committee examined the application of the Convention on the basis of publicly available information.

General questions on application. Implementing measures. The Committee notes that the issues covered by the Convention are mainly addressed by Act No. 30-63 of 4 July 1963 issuing the Merchant Shipping Code, amended by Act No. 63-65 of 30 December 1965, and by orders and decrees of the Ministry of Transport, Civil Aviation and Merchant Shipping. It observes that the Merchant Shipping Code has not been revised in order to take into account the requirements of the Convention. The Committee also notes that the Labour Code does not exclude fishers from its scope of application, and that Regulation No. 08/12 UEAC-088-CM-23 of the Central African Economic and Monetary Community (CEMAC) adopting the Community Merchant Shipping Code of 22 July 2012 (CCMM), which is directly applicable in the Congo, also applies to fishing navigation. Having reviewed the available information, the Committee notes certain contradictions between national provisions and between these and the CCMM, as well as the absence of available information on the implementation of numerous provisions of the Convention. Noting that the Constitution of the Congo enshrines the supremacy of ratified international Conventions over national legislation, the Committee underscores, however, the need to avoid any contradiction in the applicable provisions, and recalls that the Convention includes requirements for which Member States have to take the necessary measures to ensure the conformity of national law and practice. ***The Committee therefore requests the Government to adopt without delay the necessary measures to implement the Convention, taking into account the matters raised in the request addressed directly to the Government. The Committee also requests the Government to provide detailed information on consultations held with the representative organizations of fishing vessel owners and fishers concerned, as prescribed by the Convention. It further requests the Government to provide a copy of any legislative texts or other regulatory instruments once adopted, as well as full information on the implementation of the Convention, including updated statistics on the number of fishers who are nationals or residents of the Congo or who work on fishing vessels that fly the Congolese flag. The Committee reminds the Government of the possibility to avail itself of the technical assistance of the Office in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2023.]

Liberia

Minimum Age (Fishermen) Convention, 1959 (No. 112) (ratification: 1960)

Medical Examination (Fishermen) Convention, 1959 (No. 113) (ratification: 1960)

Fishermen's Articles of Agreement Convention, 1959 (No. 114) (ratification: 1960)

The Committee notes that the Government's reports have not been received. It is therefore bound to repeat its previous comments.

The Committee notes the Government's reports on the application of Conventions Nos 112, 113, and 114 on the fishing sector. In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on fishing, the Committee considers it appropriate to examine them together.

The Committee requested the Government to clarify whether the Liberian Maritime Law, RLM 107 and the Liberian Maritime Regulations, RLM-108 were applicable to fishers. The Committee notes with **regret** that the Government has not provided the clarification requested in this regard. **Therefore, recalling that for numerous years the Government has been requested to provide information on the applicability of existing legislation to fishers, the Committee once again requests the Government to indicate the measures adopted to give full effect to the provisions of the Conventions, taking into account the points raised in previous observations.**

Impact of the COVID-19 pandemic. The Committee notes with **deep concern** the impact of the COVID-19 pandemic on the protection of fishers' rights as laid out in the Conventions. **In this regard, the Committee refers to the resolution adopted by the Governing Body in its 340th Session (GB.340/Resolution) concerning maritime labour issues and COVID-19 disease, which calls on Member States to take measures to address the adverse impacts of the pandemic on fishers' rights, and requests the Government to provide information in its next report on any temporary measures adopted in this regard, their duration and their impact on fishers' rights.**

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Mauritania

Minimum Age (Fishermen) Convention, 1959 (No. 112) (ratification: 1963)

Fishermen's Articles of Agreement Convention, 1959 (No. 114) (ratification: 1963)

[Previous comment on Convention No. 112](#)

[Previous comment on Convention No. 114](#)

In order to give an overview of the issues relating to the application of the Conventions on fishing, the Committee deems it appropriate to examine them in a single comment, as set out below.

Minimum Age (Fishermen) Convention, 1959 (No. 112)

Article 2 of the Convention. Minimum age for admission to work on fishing vessels. The Committee noted that section 413(1) of Act No. 2013-029, issuing the Merchant Shipping Code, prohibits the employment, engagement or work on board a vessel of any person under the age of 16 years. Section 413(2) provides that the maritime authority may authorize persons aged 15 years to work on fishing vessels when they are engaged in vocational training in fishing or performing light work. Section 413(4) provides that the maritime authority may authorize exceptions to section 413(2), without specifying the minimum permissible age for this exception, where the effective training of fishers in the context of established programmes and schedules would be impaired. The Committee had recalled that *Article 2(3)* of the Convention authorizes exceptions to the minimum age of 15 years, while setting a permissible limit at 14 years for children employed on board fishing vessels and requested the Government to provide clarifications on the minimum age authorized by section 413(4) of the Merchant Shipping Code. The Committee notes the Government's reiteration in its report that, while the exception established to the above section does not specify the minimum age authorized, this age is in fact set at 14 years. It adds that this issue will be taken into account in the implementing regulations. **Noting that the legislation currently in force does not set an age limit of 14 years for authorized exceptions, the Committee asks the Government to take the necessary measures without further delay to bring its legislation into full conformity with Article 2 of the Convention.**

Fishermen's Articles of Agreement Convention, 1959 (No. 114)

Article 6(3). Particulars to be contained in the agreement. In its [previous](#) comment, the Committee requested the Government to indicate the measures adopted to give full effect to *Article 6* of the

Convention, namely regarding the inclusion of the following particulars in the fisher's articles of agreement: (a) the surname and other names of the fisher, the date of his birth or his age, and his birthplace; (b) the place at which and date on which the agreement was completed; (c) the name of the fishing vessel or vessels on board which the fisher undertakes to serve; (d) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement; and (e) the amount of his wages, or the amount of his share and the method of calculating such share. The Committee notes that the new Merchant Marine Code does not set out a list of particulars to be contained in the agreement. In its response, the Government indicates that there have been no changes to the legislation since the adoption of Act No. 2013-029 of 15 October 2013 issuing the Merchant Marine Code. ***The Committee requests the Government to take, without further delay, the necessary measures to bring its legislation fully into conformity with this provision of the Convention.***

Trinidad and Tobago

Fishermen's Competency Certificates Convention, 1966 (No. 125) (ratification: 1972)

Previous comment

Implementing legislation on fishers' competency certificates. Noting the absence of laws and regulations giving effect to the requirements of the Convention, the Committee urged the Government to adopt the necessary measures without delay to regulate fishers' competency certificates. The Committee notes the Government's indication in its report that it seeks to address such issues in the new draft Shipping Bill, which was completed in 2020 and which is presently before a Joint Select Committee of Parliament. The Bill specifically provides at Clause 135 (as presently numbered) for the issuance of Certificates of Competency to all seafarers on all Trinidad and Tobago ships, inclusive of fishing vessels. The Clause further provides for the manner of application, the evidence of experience and training requirements needed for applicants, and the conditions and endorsements issuable by the Maritime Administration upon issue. The Government adds that with the passage of the Bill, this enabling clause shall form the basis upon which regulations implementing the provisions of the Convention can be drafted and formally promulgated. Finally, the Government indicates that upon recent examination of the Bill, it was noted that while provision is made generally for a "master", that is "a person in command or charge of a ship", there is no specific reference to a "skipper", being the term used in the Convention as "a person in charge of a fishing vessel". In this regard, a recommendation shall be made to the Joint Select Committee of Parliament that the definition of "master" be expanded to include the skipper of a fishing vessel. ***The Committee notes this information and expects that all necessary measures will be adopted without any further delay to give full effect to the provisions of the Convention. The Committee requests the Government to provide a copy of the relevant provisions once adopted.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 113** (Montenegro); **Convention No. 114** (Montenegro); **Convention No. 126** (Montenegro); **Convention No. 188** (Congo, Morocco, Namibia, Netherlands, Poland, United Kingdom of Great Britain and Northern Ireland).

Dockworkers

Direct requests

Requests regarding certain matters are being addressed directly to the following States: **Convention No. 27** (*Montenegro, Viet Nam*); **Convention No. 32** (*Malta, Mauritius, New Zealand, Nigeria, Tajikistan*); **Convention No. 137** (*Mauritius, Nicaragua, Nigeria, United Republic of Tanzania*); **Convention No. 152** (*Lebanon, Mexico, Montenegro, Netherlands, United Republic of Tanzania*).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 27** (*Morocco*).

Indigenous and tribal peoples

Bangladesh

Indigenous and Tribal Peoples Convention, 1957 (No. 107) (ratification: 1972)

Previous comments

Article 2 of the Convention. Coordinated and systematic action. Implementation of the Chittagong Hill Tracts Peace Accord, 1997. The Committee previously noted the Government's commitment to fully implement the 1997 Chittagong Hill Tracts Peace Accord. It notes that the Government indicates in its report that a total of 48 out of the 72 clauses of the Peace Accord have been implemented, while 15 have been partially implemented and nine are still being implemented. In this respect, the Government points out that there are still some critical issues, such as the settlement of land disputes, the holding of elections of the Hill District Councils and the Chittagong Hill Tracts Regional Council, and the harmonization of the Chittagong Hill Tracts Regulation, 1900 and related laws with the 1989 Hill District Council Acts. The Committee further notes the Government's indication that, pursuant to section D paragraph 8 of the Peace Accord, the cancellations of land allocation for rubber and other plantations to non-tribal and non-local persons have been implemented, and the lease of conditional allotments for rubber plantations has been cancelled for those who violated the conditions. ***The Committee requests the Government to continue taking the necessary measures to fully implement the 1997 Chittagong Hill Tracts Peace Accord and to continue to provide information in this respect, including on the sections of the agreement pending implementation and the difficulties encountered in this respect.***

Article 3. Protection of indigenous persons. The Committee notes that in its 2019 concluding observations, the United Nations Committee against Torture (CAT) expressed its concern at reports of intimidation, harassment, and physical violence, including sexual violence, committed against members of indigenous communities, including by or with the cooperation of State officials. The CAT also noted the reported rape and sexual assault of two teenage women by members of the army in the Chittagong Hill Tracts, and the disappearance of an indigenous rights activist in that region (CAT/C/BGD/CO/1, paragraph 23). The Committee further notes that in her statement of 17 August 2022 on her official visit to Bangladesh, the United Nations High Commissioner for Human Rights referred to continued allegations of human rights violations in the Chittagong Hill Tracts linked with land disputes and the need for demilitarization.

The Committee notes this information with ***deep concern*** and recalls the importance of ensuring an environment conducive to the full exercise of the rights of indigenous and tribal populations. ***The Committee urges the Government to take the necessary measures to protect the physical integrity of persons belonging to indigenous communities, including of those living in the Chittagong Hill Tracts, and to address the root causes of violence in the areas they inhabit. It also requests the Government to conduct, as a matter of urgency, thorough investigations of reported cases of intimidation, violence, including sexual violence, and disappearance of persons belonging to indigenous communities and to ensure that perpetrators are identified, prosecuted and punished. The Committee requests the Government to provide detailed information in this respect.***

Articles 11 to 14. Land rights. The Committee previously noted that, pursuant to the Chittagong Hill Tracts Peace Accord, amendments to the 2001 Chittagong Hill Tracts Land Dispute Resolution Commission Act were under consideration. The Committee notes the Government's indication that the Chittagong Hill Tracts Land Dispute Resolution Commission (Amendment) Act was enacted by the Parliament in 2016 to ensure and protect the land rights of indigenous groups, including of the permanent residents of the Chittagong Hill Tracts region. It notes that, according to the Government's Eighth Five Year Plan July 2020–June 2025, an appropriate land policy will be formulated to deal with

land disputes involving ethnic groups and that measures will be taken to establish a separate land commission for ethnic minorities in the plains.

The Committee urges the Government to take the necessary measures to ensure the effective recognition and protection of the rights of indigenous communities over the land they have traditionally occupied, both in the Chittagong Hill Tracts and the plains. Recalling that the Chittagong Hill Tracts Land Dispute Resolution Commission was established in 2001 for the speedy settlement of land related disputes in the Chittagong Hill Tracts region and the formulation of rules to that effect, the Committee requests the Government to ensure that the Commission has the necessary resources and capacities to fulfil its mandate. The Committee hopes that the amendments to the Chittagong Hill Tracts Land Dispute Resolution Commission Act will contribute to the resolution of existing land-related conflicts in the Chittagong Hill Tracts and requests the Government to provide concrete information in this regard. Finally, the Committee requests the Government to provide information on the progress made towards the adoption of a land policy and the establishment of a land commission for indigenous communities in the plains, as envisaged by the Eighth Five Year Plan.

Prospects for the ratification of the Indigenous and Tribal Peoples Convention, 1989 (No.169). The Committee notes that the Eighth Five-year Plan July 2020–June 2025 contemplates as an area of future action the ratification of the Indigenous and Tribal Peoples Convention, 1989 (No. 169). The Committee recalls in this regard that, at its 328th Session in November 2016, the Governing Body requested the Office to commence follow-up with the Member States bound by Convention No. 107, encouraging them to ratify Convention No. 169, as the most up-to-date instrument in this subject area. In this regard, the Committee observes that, in the context of the implementation of the ILO Strategy for indigenous peoples' rights for inclusive and sustainable development, the Office can provide the appropriate support to countries that so wish, including by conducting preliminary assessments and building capacities to establish a legal, strategic and institutional framework to facilitate the implementation of Convention No. 169. ***Therefore, the Committee encourages the Government to continue considering the possibility of ratifying of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), which is the most up-to-date instrument in this subject area. In this respect, it reminds the Government of the possibility of availing itself of ILO technical assistance.***

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2024.]

Brazil

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2002)

The Committee notes the observations of the Single Confederation of Workers (CUT), received on 2 September 2022, which contain new information concerning issues already raised by the Committee in its previous comments. ***The Committee requests the Government to provide its response to these observations.*** Furthermore, the Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the observations of the International Organisation of Employers (IOE), received on 2 September 2019, which contain general comments on the application of the Convention; the joint observations of the IOE and the National Confederation of Industry (CNI), received on 31 August 2018; the observations of the National Confederation for Typical State Careers (CONACATE), which include general comments on the application of the Convention received on 28 August 2017, and the observations of the General Confederation of Workers of Peru (CGTP), received on 23 March 2017, which include a report by COICA (a Peruvian indigenous peoples' organization) on the application of the Convention in various countries.

Representation made under article 24 of the ILO Constitution. Right of Quilombola communities to the lands they traditionally occupy. Alcântara space launch centre. For many years, the Committee has been examining

the question of the impact of the establishment of the Alcântara space centre (CEA) and the Alcântara launch centre (CLA) on the rights of the Quilombola communities of Alcântara. The Committee notes that the Governing Body at its 337th Session (October–November 2019) decided that the representation made under article 24 of the ILO Constitution by the Union of Rural Workers of Alcântara (STTR) and the Union of Family Agriculture Workers of Alcântara (SINTRAF), alleging non-observance by Brazil of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), was receivable. The Committee observes that the allegations in the representation refer to the consequences of the extension of the area covered by the Alcântara space launch centre on the rights of the Quilombola communities and the lands traditionally occupied by them. ***In accordance with its usual practice, the Committee has decided to defer the examination of this issue until the Governing Body adopts its report on the representation.***

Article 3 of the Convention. Human rights. The Committee observes that certain United Nations bodies and the Inter-American Commission on Human Rights (IACHR) have expressed concern in recent years at the situation of conflict surrounding territorial claims and at threats and attacks on the rights and integrity of the indigenous peoples of Brazil. The Committee notes the press release of 8 June 2017 of the Office of the United Nations High Commissioner for Human Rights (title: “Indigenous and environmental rights under attack in Brazil, UN and Inter-American experts warn”) in which three UN Special Rapporteurs and a IACHR Rapporteur stated: “In the last 15 years, Brazil has seen the highest number of killings of environmental and land defenders of any country. [...] Indigenous peoples are especially at risk”. The Committee notes that the IACHR, in its preliminary observations of 12 November 2018 concerning its visit to Brazil, emphasized that harassment, threats and murders characterized land disputes and forced displacements. The IACHR noted with concern that the impunity surrounding these acts of rural violence was contributing towards their perpetuation and increase. Furthermore, at the time of its travel to Mato Grosso state, the IACHR observed the grave humanitarian situation faced by the Guarani and Kaiowá peoples, largely due to violations of their land rights. The IACHR visited the Dorados-Amambaieguá indigenous lands, and received information on the victims of the “Caaraó massacre”, during which one person was killed and another six members of the community were injured, as well as reports of frequent armed attacks by militias. The Committee also notes that the IACHR granted precautionary measures on 29 September 2019 in favour of members of the Guayraroká community of the Guarani Kaiowá indigenous people, since they had prima facie evidence that families of the community are in a serious and urgent situation because their rights to life and physical integrity are at serious risk. The IACHR takes into consideration reports concerning the high level of conflict between members of the community and landowners and concerning death threats (Resolution 47/19, Precautionary Measure (PM) 458/19). The Committee notes this information with **concern. The Committee urges the Government to take all the necessary measures to protect the life, physical and psychological integrity, and all the rights guaranteed by the Convention to indigenous and tribal peoples. The Committee considers that indigenous and tribal peoples can only assert their rights, particularly with regard to possession and ownership of the lands they traditionally occupy, if adequate measures are adopted to guarantee a climate free of violence, pressure, fear and threats of any kind.**

Articles 6, 7, 15 and 16. Consultations. In its previous comments, the Committee referred to the process for regulation of the indigenous and Quilombola peoples’ right to consultation which had been under way since 2012. In this regard, the Government indicated that the process of negotiation with the peoples concerned had encountered certain difficulties and that the Secretariat-General of the Government was endeavouring to restore the dialogue. The Government was considering the possibility of proposing a potential consultation mechanism on the basis of a practical case. The Committee also noted that the CNI and the IOE had emphasized that the absence of regulation on the consultations required by the Convention was generating legal uncertainty for enterprises. In its report, the Government indicates that in recent years a number of indigenous peoples have taken initiatives in this area, indicating to the State the manner in which they wish to be consulted. In this context, they have drawn up their own protocols for prior consultation in which they formalize the diversity of procedures for building dialogue enabling effective participation in decision-making processes that can affect their lives, their rights or their lands. The Government refers in particular to the support given by the National Foundation for Indigenous Affairs (FUNAI) for drafting protocols for consultations involving the Xingu indigenous peoples in 2016, the Krenak indigenous people in 2018 and the Tupiniqum people in 2018, and to discussions under way in the Roraima Indigenous Council (CIR). In this regard, the Committee observes that, according to information on the website of the Public Prosecutor’s Office, other communities have adopted protocols of this type. Moreover, regarding policies, programmes, actions and projects relating to social assistance for indigenous peoples,

the Government indicates that FUNAI is intensifying efforts to sign agreements with provider institutions in order to ensure respect for the particular social and cultural characteristics of these peoples and to respect their right to free and informed prior consultation where appropriate. The Government also points out that there is growing demand for infrastructure from indigenous communities (for electric power, water storage and distribution or road construction). In this regard, FUNAI ensures that all actions, activities or projects respect the right to free and informed prior consultation, so that relations between the Brazilian State and the indigenous communities are not vertical. The Government indicates that FUNAI, through its decentralized units, supplies technical, logistical and at times financial support to partner bodies and municipalities under whose jurisdiction indigenous lands are located in order to organize the necessary meetings. The Committee welcomes the drawing up of consultation protocols by certain communities and the role played by FUNAI in this respect. ***The Committee requests the Government to provide further information on the status of these protocols and to indicate how it is ensured in practice that the protocols are applied in a systematic and coordinated manner through the country whenever consideration is being given to legislative or administrative measures which may affect indigenous peoples directly. The Committee also encourages the Government to continue its efforts with a view to the adoption of a regulatory framework on consultations which will enable the indigenous and Quilombola peoples to have a suitable mechanism guaranteeing them the right to be consulted and to participate effectively whenever consideration is being given to legislative or administrative measures which may affect indigenous peoples directly, and which will be conducive to greater legal certainty for all stakeholders. The Committee recalls the need to consult the indigenous and Quilombola peoples as part of this process and to enable them to participate fully through their representative institutions so as to be able to express their views and influence the final outcome of the process. It requests the Government to provide information on the consultation processes undertaken, including on the basis of the consultation protocols developed by the various indigenous communities and the results thereof.***

Article 14. Lands. The Committee recalls that the two bodies responsible for the identification and demarcation of lands and the issuing of land titles are FUNAI (for lands traditionally occupied by indigenous peoples) and the National Institute for Settlement and Agrarian Reform (INCRA) (for lands traditionally occupied by the Quilombola peoples). The procedures are regulated by Decree No. 1775/96 and Decree No. 4887/03, respectively. The Government describes the various stages of the procedure, including: the request to open an administrative procedure for regularization; the preparation of a zone study (containing anthropological, historical, cartographic, land ownership and environmental elements); the declaration of limits; the opposition phase; the physical demarcation; the publication of the recognition order establishing the limits of the territory; and the registration and concession of the titles of collective ownership to the community by decree. The Committee notes the statistical information sent by the Government on land demarcation procedures in the states of Mato Grosso and Rio Grande do Sul. It observes that in Rio Grande do Sul, of a total of 48 procedures, 20 have resulted in regularization and 28 are in progress (at the study, declaration or demarcation stage). Regarding Mato Grosso, of a total of 50 procedures, 24 have resulted in regularization and 26 are in progress. The Committee also notes that, according to information on the FUNAI website, 440 lands have been regularized in the country as a whole. Moreover, 43 lands have had their limits identified, 75 lands have had their limits declared and nine lands have had their limits certified. Lastly, for 116 lands, the procedure is at the study stage. The Committee notes that CONACATE refers in its observations to Constitutional Amendment Proposal No. 215/2000, under examination by the National Congress, the aim of which is to confer exclusive authority on the National Congress to approve the demarcation of lands traditionally occupied by indigenous peoples and also to ratify demarcations which have already been certified. CONACATE indicates that the final decision on any new demarcation of these lands would no longer be under the authority of the competent ministry but under the authority of the National Congress, where agri-industry is heavily represented. The Committee also observes that, according to the information available on the website of the Federal Supreme Court (STF), in September 2019 FUNAI filed an extraordinary appeal (1.017.365/SC) with the Supreme Court on the issue of the “time frame”. The “time frame” approach followed by certain jurisdictions means that only lands actually occupied on 5 October 1988, the date of promulgation of the Constitution, should be recognized as lands traditionally occupied by indigenous peoples. Since the STF recognized the general scope of the constitutional issue under examination, its final decision will have binding force in all instances of the judiciary. Moreover, the Committee notes that, according to information on the Congress website, two interim measures were adopted in 2019 aimed at transferring the authority to identify, delimit, demarcate and register indigenous

lands from FUNAI to the Ministry of Agriculture, Livestock and Supplies (MPO 870/2019 and MP 886/2019). The first measure was rejected by the National Congress and the second measure was deemed unconstitutional by the Supreme Court. The Committee observes that the IACHR, in its preliminary observations of 12 November 2018 relating to its visit to Brazil, stated that it had received various testimonies concerning the difficulties and long delays which indigenous communities face regarding access to land ownership. The result of these difficulties was that public lands intended for these communities were occupied by landowners or private mining enterprises, and this gave rise to conflicts involving expulsions, displacements, invasions and other forms of violence. The IACHR also expressed concern at the weakening in recent years of institutions such as FUNAI. The Committee recalls that *Article 14* of the Convention provides that the rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognized. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. In this regard, the Committee emphasized in its General observation of 2018 that recognition of traditional occupation as the source of ownership and possession rights is the cornerstone on which the land rights system established by the Convention is based. ***The Committee trusts that the Government will continue taking all necessary measures to ensure the full application of the Convention with regard to the ownership and possession rights of indigenous and tribal peoples over all the lands which they traditionally occupy. It requests the Government to take the necessary measures to follow up in the very near future on the procedures pending before FUNAI concerning the delimitation, demarcation and registration of indigenous lands and before INCRA concerning lands traditionally occupied by Quilombola communities. The Committee in particular requests the Government to provide information on the measures taken regarding the situation of the Guarani and Kaiowá peoples. The Committee further requests the Government to provide information on the human and material resources allocated to both FUNAI and INCRA to fulfil their mandate at every stage of the procedure – studies, delimitation, demarcation and registration of lands.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Paraguay

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1993)

[Previous comment](#)

The Committee notes the observations of the Central Confederation of Workers–Authentic (CUT-A), received on 30 August 2021.

Articles 2 and 33 of the Convention. Coordinated and systematic action. Further to its previous comments, the Committee notes the Government's reference in its report to the adoption of the National Plan for Indigenous Peoples 2020–30 (PNPI) by Decree No. 5897 of 25 August 2021. The Committee welcomes the fact that the formulation of the Plan was the result of a participatory process to which over a thousand men and women leaders and focal points from indigenous organizations contributed via 18 regional workshops in all departments of the country. The PNPI comprises four strategic components aimed at: (i) strengthening forms of indigenous identity and world views; (ii) guaranteeing rights; (iii) ensuring access to economic, social, cultural and environmental rights; and (iv) catering for groups requiring special attention. The Committee duly notes, with regard to the participation of indigenous peoples, that the PNPI envisages: strengthening the Paraguayan Indigenous Institute (INDI); institutionalizing and coordinating mechanisms for the effective participation of indigenous peoples, agreed upon with them, at the levels of national and local government; and establishing an entity for the participation of indigenous peoples at the political level of decision-making with regard to implementation of the Plan. Moreover, a body will be created to ensure inter-institutional coordination at the highest political level, headed by the INDI, in which budgets and priorities will be

agreed upon for the progressive implementation of the plan. The PNPI also envisages the setting up of a system to monitor and evaluate its implementation with a matrix of indicators and stakeholder institutions, including a community monitoring body. ***The Committee trusts that the adoption of the National Plan for Indigenous Peoples 2020–30 (PNPI) will make it possible to strengthen coordinated and systematic action to implement fully the rights enshrined in the Convention, and requests the Government to take the necessary steps to ensure the effective implementation of the Plan in all its strategic areas, ensuring the due budget assignment for that purpose. The Committee also requests the Government to provide information on the establishment and functioning of the entities for the participation of indigenous peoples envisaged by the Plan and on the results of the evaluation of the implementation of the Plan.***

Articles 6 and 15 of the Convention. Consultation. The Committee notes with **interest** the adoption of the Protocol governing the process of prior informed consent and consultation with the indigenous peoples of Paraguay (Decree No. 1039 of 28 December 2018). The Protocol provides that the coordination of consultation processes will come under the responsibility of the INDI. It stipulates that the indigenous peoples and the proponents of the project for consultation must reach an agreement on reasonable periods and deadlines for the different stages of the consultation process, ensuring that the indigenous peoples have sufficient time to understand the information received and acquire any additional information or clarification. The information supplied to the community must include: the nature, size, setting and duration of the project; the location of the areas and resources which will be affected; a preliminary study of the possible positive and negative impacts of the project; procedures to alleviate possible damage; and all foreseeable implications, including the benefits for the community. The INDI is responsible for adopting regulations for the implementation of the Protocol. The Committee notes the Government's indication that some 120 consultation sessions have been held in various indigenous communities, most of them relating to housing construction projects. ***The Committee requests the Government to continue its efforts to ensure the implementation of the consultation processes with the indigenous peoples with regard to all legislative or administrative measures which may affect them directly. In this regard, the Committee requests the Government to provide information on the measures taken, firstly, to allocate the necessary resources to the Paraguayan Indigenous Institute (INDI) to coordinate the implementation of the Protocol on consultation and, secondly, to instruct the indigenous peoples on the content of the Protocol and its regulations in order to ensure their effective participation in the consultation processes. Lastly, the Committee requests the Government to continue providing information on the consultations held in the framework of the Protocol on consultation, indicating the number of instances in which agreements have been reached.***

Article 7(2). Improvement of living conditions. The Committee notes that the CUT-A indicates in its observations that there are deep inequalities separating the indigenous population and the rest of the population, since 75 per cent of the indigenous population lives in poverty and 60 per cent in extreme poverty, which is above the national average. In this regard, the Government indicates that the Tekopora Programme of the Ministry of Social Development, aimed at the protection and promotion of vulnerable families living in poverty, has benefited 29,517 indigenous families totalling 91,007 persons. The resources provided not only make it possible to cover basic needs but also to invest through cooperative schemes in consumer stores that benefit the whole community. Programmes have also been implemented for the provision of sanitation and drinking water services for the Chaco region, with the aim of supplying 87 indigenous communities in the region. ***The Committee requests the Government to continue taking measures, in collaboration with the indigenous peoples, to reduce the inequalities and the rates of poverty and extreme poverty faced by the indigenous communities, including through national and departmental development plans, and to provide information on the results achieved further to the adoption of these measures.***

Article 14. Lands. In its previous comments, the Committee emphasized the need to continue making progress on the regularization of lands that indigenous peoples have traditionally occupied and

on the titles granted to them. The Committee notes the information provided by the Government on progress made in the processes of expropriation and transfer of lands to the following indigenous communities: Sawhoyamaxa (14,404 hectares), Xákmok Kásek (7,701 hectares) and Yakye Axa (11,312 hectares), in compliance with the judgments handed down by the Inter-American Court of Human Rights. The Committee also notes the declaration of expropriation of 219 hectares in the district of Carlos Antonio López, department of Itapúa, to the INDI, for subsequent assignment to the Y'aká Marangatu indigenous community.

The Committee further notes the Government's statement that there are many disputes regarding lands because of a clash between private third-party ownership and indigenous collective ownership. In this regard, it notes that the INDI emphasizes that an impact on the rights of third parties is not sufficient grounds for denying the rights of indigenous peoples to their ancestral lands, given that these rights cover a wider concept relating to the collective right to survival. The INDI adds that if land rights are viewed from the perspective of productivity and the agricultural system, this takes insufficient account of the particular features of indigenous communities. The CUT-A, for its part, refers in its observations to land disputes arising from occupations of indigenous lands by landless peasant farmers (*campesinos*) and to attempted forced evictions and harassment of indigenous communities, including with the intervention of armed non-government agents, as was the case with the Veraró community (department of Canindeyú), the Guyra Payu and Huguá Po'i communities (department of Caaguazú), and the Jacuí Guasú community (department of Itapúa). It underlines the lack of a public policy for tackling this problem. In this regard, the Committee observes that the United Nations Human Rights Committee, in its concluding observations of 2019, expressed concern at the slow progress made in registering and returning land and the consequent lack of comprehensive access for indigenous communities to their lands and natural resources (CCPR/C/PRY/CO/4, paragraph 44).

While the Committee understands the complexities related to the recognition of lands that indigenous peoples have traditionally occupied and the grant of title to them, it requests the Government to intensify its efforts to move forward in the appropriate processes in this regard and to provide information on progress made. In view of the existence of legal disputes between indigenous peoples and third parties regarding the ownership of lands, the Committee urges the Government to take the necessary steps to resolve the disputes and to reach agreements with the parties involved. In this regard, the Committee requests the Government to take the necessary steps without delay to investigate the facts relating to the occupation of lands by landless peasant farmers (campesinos) and also relating to forced evictions and harassment of indigenous communities, and to provide information in this respect.

Article 20. Recruitment and conditions of employment. For a number of years, the Committee has been urging the Government to strengthen the State's presence in the Chaco region in order to put an end to economic exploitation, in particular debt bondage involving indigenous workers. The Committee notes the Government's reference to the Paraguay Okakuaa project aimed at enhancing compliance with the labour legislation and improving decent working conditions, with the emphasis on preventing and combating forced labour. In this context, awareness-raising activities regarding labour rights have been carried out, with a particular focus on indigenous populations in the department of Boquerón. Talks have also been held with local actors and indigenous leaders to discuss concepts, regulations, indicators and vulnerabilities relating to forced labour.

The Committee notes that the CUT-A refers to the working situation of indigenous workers in the Chaco region, emphasizing that pay negotiations are conducted verbally and hence the workers have no means of demanding fulfilment of the agreed conditions. On livestock farms, indigenous workers are unpaid and only receive food and permission to live on the farm, in precarious conditions and without social protection. The CUT-A also indicates that the Ministry of Labour, Employment and Social Security (Ministry of Labour) does not have the necessary resources to carry out periodic controls of the situation of these workers through intervention by labour inspectors.

While recognizing the action taken by the Government to combat exploitation and forced labour of indigenous workers in the Chaco region, the Committee requests the Government to intensify its efforts to ensure that the offices of the Ministry of Labour in the Chaco region, including the labour inspectorate, have the necessary resources to monitor the observance of the labour rights of these workers, particularly those located on remote farms, to respond to complaints and to penalize violations. In addition, the Committee requests the Government to provide information on progress made in this respect. The Committee also refers to its [comments](#) on the application of the Forced Labour Convention, 1930 (No. 29).

The Committee is raising other matters in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 107** (Angola, Bangladesh, Belgium, Pakistan, Syrian Arab Republic); **Convention No. 169** (Argentina, Brazil, Luxembourg, Paraguay).

Specific categories of workers

Cuba

Plantations Convention, 1958 (No. 110) (ratification: 1958)

Previous comment

Part IV of the Convention. Wages. Articles 24–35. The Committee notes that the Government refers to the adoption of Resolution No. 29 of 25 November 2020, establishing the national minimum monthly wage at 2,100 pesos (CUP) (approximately US\$87.55) and approving the wage scales and rates applicable to all workers. The Government indicates that representatives of the workers and employers participated in all the processes for the adoption of measures. However, the Committee notes that the Government does not provide specific examples of the manner in which representatives of employers' and workers' organizations were consulted in the context of determining the minimum wage for plantation workers, as required by *Article 24* of the Convention. The Government adds that, according to the National Statistics and Information Office, in 2020 the average monthly wage in agriculture, livestock farming and forestry was CUP1,043 (approximately US\$43.49). However, the Committee notes that the Government does not provide any specific information on the wages received by plantation workers, or on the manner in which it is ensured that they receive at least the established national minimum wage. Nor does the Government provide information on the number and results of inspections carried out regarding the payment of wages on plantations. ***The Committee once again requests the Government to provide specific examples of the manner in which representatives of the workers' and employers' organizations in the plantations sector were consulted during the process of determining the minimum wage, in accordance with Article 24 of the Convention. The Committee also once again requests the Government to provide detailed, up-to-date information on the manner in which it is ensured that workers in the plantations sector receive at least the established national minimum wage, and also statistical information on the number and results of inspections conducted on plantations in relation to this matter.***

Part V. Annual holidays with pay. Articles 36–42. For nearly 20 years the Committee has been asking the Government to give effect to *Article 41* of the Convention. The Committee recalls that, in its 2018 comment, it expressed the hope that the new Labour Code would take due account of its previous comments on the need to amend section 98 of the Labour Code, which provided for cash compensation to be paid in lieu of holidays under certain conditions. The Committee noted that section 98 of the Labour Code was repealed by Act No. 116 of 20 December 2013 adopting the new Labour Code. However, the Committee noted that section 107 of the 2013 Labour Code authorizes the employer to require the presence of the worker under exceptional circumstances, and allows the employer to postpone or reduce the worker's holidays and pay the worker for the forgone portion of the accumulated holidays. In this regard, the Committee has been asking the Government since 2018 to indicate the manner in which it is ensured that section 107 of the Labour Code gives full effect to *Article 41* of the Convention. However, the Committee notes with ***regret*** that the Government does not provide any new information on this point and that it merely reiterates that holidays can only be postponed under exceptional circumstances and that measures are adopted to protect this right. ***The Committee therefore urges the Government to take the necessary measures to give full effect to Article 41 of the Convention, which provides that any agreement to relinquish the right to an annual holiday with pay, or to forgo such a holiday, shall be void. Noting that section 107 of the 2013 Labour Code contains the same formulation on holidays with pay as that contained in section 98 of the former Labour Code, a section that the Committee already referred to as not being in conformity with Article 41 of the Convention, the Committee refers to its 2013 comments on the Holidays with Pay***

Convention, 1936 (No. 52), in which it asked the Government to amend section 98 of the Labour Code or to specify that this section cannot be applied to the minimum holidays provided for in section 95 of the Labour Code.

Parts IX and X. Right to organize and collective bargaining. Freedom of association. Articles 54–70. The Committee notes the statistical information provided by the Government, indicating that there are a total of 350,760 workers in agriculture, of whom 229,000 are state workers, 15,107 are non-state workers and 36,000 are retirees, and that 99.4 per cent of these workers are unionized. The Government also indicates that there are 8,020 base-level organizations and 43 trade union bureaux and that a total of 1,223 collective agreements have been signed. However, the Committee notes that the statistical information provided by the Government refers to the agricultural sector but does not refer specifically to workers on plantations. Moreover, the Government does not provide any specific information on the measures taken or envisaged to ensure in practice that workers on plantations enjoy appropriate protection against any act of discrimination aimed at undermining freedom of association in relation to their employment. **The Committee therefore once again requests the Government to provide statistical information on the number of collective agreements signed specifically with respect to plantations and to indicate the number of workers covered. The Committee also once again requests the Government to provide information on the measures taken or envisaged to ensure in practice that workers on plantations enjoy adequate protection against any act of discrimination aimed at undermining freedom of association in relation to their employment.**

Part XI. Labour inspection. Articles 71–84. In its previous comments, the Committee asked the Government to indicate the manner in which the labour inspectorate monitors and ensures that the activities of the vocational training and occupational guidance process on plantations comply with Article 6 of the Minimum Age Convention, 1973 (No. 138). However, the Committee notes that the Government does not provide any information on this matter. The Committee also asked the Government to send detailed information on the numbers of secondary-school students working on plantations, disaggregated by age, type and conditions of work, and on how they are compensated, and also on the manner in which it is ensured that these students and prisoners who work on the plantations have the freedom to choose whether or not to work. The Committee notes that the Government provides a partial reply in this regard, indicating that the Ministry of Education establishes working procedures for each school year, regulates vocational and work training for school students, on the basis of the principle of combining theory with practice by linking study and work, on a voluntary and unpaid basis, respecting the special guarantees and protection provided for in the legislation. As regards work done by prisoners, the Government indicates that such work is voluntary. In reply to the Committee's previous comment, the Government states that in 2020 the National Labour Inspection Office carried out inspections in 4,246 entities, covering 927,921 workers in the state sector, including in agriculture. The Government adds that these inspections mainly checked compliance with measures for the prevention and control of COVID-19. The Government also indicates that the National Labour Inspection Office has not detected any cases of forced labour or of child labour and that the Public Assistance Office at the Ministry of Labour and Social Security has not received any complaints in this regard. However, the Committee notes that the Government does not provide any specific information on workers on plantations. **The Committee therefore once again requests the Government to provide detailed information on the supervision and enforcement measures relating to the conditions of work of plantation workers, particularly the inspections carried out on plantations, violations of the labour legislation reported, and the penalties imposed. Furthermore, the Committee once again requests the Government to indicate the manner in which the labour inspectorate conducts inspections and ensures that the activities of the vocational training and occupational guidance process for students on plantations comply with Article 6 of the Minimum Age Convention, 1973 (No. 138). The Committee also requests the Government to indicate which criteria, including age and sex, are used to select students who work on plantations, and how it is ensured that work on plantations is relevant to them in the**

context of the work-study link referred to above. Lastly, the Committee requests the Government to indicate the manner in which it is ensured that secondary-school students and prisoners who work on plantations have the freedom to decide whether or not to work.

Part IV. Application in practice. The Committee notes that no information has been supplied by the Government on the application of the Convention in practice. **The Committee therefore once again requests the Government to provide detailed, up-to-date information on the application of the Convention in practice, including: (i) recent studies on the socio-economic conditions of workers on plantations; (ii) statistical information, disaggregated by sex and age, on the number of plantations and workers to whom the Convention applies; (iii) copies of collective agreements applicable in the sector; and (iv) the number of workers' and employers' organizations established in the plantations sector, and any other information which enables the Committee to assess the situation of workers on plantations in relation to the provisions of the Convention.**

Panama

Domestic Workers Convention, 2011 (No. 189) (ratification: 2015)

Previous comment

The Committee notes the observations of the National Confederation of United Independent Unions (CONUSI), received on 30 August 2021. **The Committee requests the Government to provide its comments in this respect.**

Article 18. Application of the Convention. In its previous comments, the Committee noted the preparation of a preliminary draft Bill No. 012 (Bill No. 438) of 19 July 2016, which amends the provisions of the Labour Code and Family Code establishing working conditions for persons engaged in domestic work and requested the Government to provide information on the status of the Bill. The Committee notes the Government's indication that the Bill was referred back from the second reading in the National Assembly to a further first reading. In its comments CONUSI observes that no progress had been made in the status of the Bill since 2017 and maintains that it includes provisions that establish working conditions for domestic workers that are less favourable than those provided for in the legal system for other categories of workers in areas such as: wages, working time (more than eight hours per day), right to education and compensation for unjustified termination of contract. **In the context where it is likely that draft Bill No. 012 (Bill No. 438) of 19 July 2016 will be approved in the near future, the Committee requests the Government to take the necessary measures, in consultation with the social partners, including the organizations representative of domestic workers as well as organizations representative of employers of domestic workers, to ensure full conformity of its labour legislation with the requirements of the Convention (Article 18), and keep the Office informed of any developments in this respect.**

Articles 6 and 9. Fair terms of employment and decent working and living conditions. The Committee notes the Government's indication that, in most cases, employers reach agreement with domestic workers about whether they are required to reside in the household. It adds that domestic workers' rest breaks and holiday periods are also respected. The Government also indicates that all workers have the right to keep their travel and identity documents. However, in its comments CONUSI indicates that there is a lack of information regarding the situation of domestic workers from which it can be ascertained whether or not domestic workers enjoy such rights in practice. In relation to the measures taken to ensure that domestic workers living in the household where they are employed enjoy decent living conditions, the Government refers once again to section 231(9) of the Labour Code, which requires that the meals provided to domestic workers must be healthy, plentiful and nutritious, and the living area comfortable and clean. **The Committee requests the Government to provide updated and detailed information on how it is ensured in practice that all domestic workers: (a) are free to reach agreement**

with their employer or potential employer on whether to reside in the household; (b) are not obliged to remain in the household or with members of the household during periods of daily and weekly rest or annual leave; and (c) are entitled to keep in their possession their travel and identity documents. The Committee also once again requests the Government to provide information on the measures envisaged or adopted to ensure, in practice, that domestic workers who reside in the household they work for, benefit from decent living conditions that respect their privacy.

Article 10(1). Equality of treatment between domestic workers and workers generally in relation to hours of work. In its previous comments, the Committee noted that section 231(2) of the Labour Code provides that “domestic workers shall not be subject to a schedule of hours of work but shall benefit from a minimum absolute rest period between 9 p.m. and 6 a.m. ...”. It also noted that, in its ruling of 10 August 1994, the Supreme Court declared that section 231(2) of the Labour Code does not establish a 15-hour day for domestic workers but seeks to ensure that they benefit from a “continuous and uninterrupted period of rest during which they are not under the requirement to perform any work.” The Committee notes the Government’s indication that in practice most domestic workers are entitled to keep a set schedule, including periods of rest. The Committee nevertheless notes that both the Government and CONUSI in its observations recognize the need to amend this regulation to ensure equal working conditions between domestic workers and workers in general. ***The Committee therefore urges the Government to take the necessary measures without delay to amend section 231(2) of the Labour Code with a view to ensuring equality of treatment between domestic workers and workers in general in relation to normal hours of work, overtime compensation and periods of daily rest. The Committee requests the Government to provide information on progress achieved in this respect.***

Article 10(3). Periods during which domestic workers are not free to dispose of their time as they please. The Committee notes that the Government has not provided information on the implementation in practice of this Article of the Convention. ***The Committee once again requests the Government to take the necessary measures to ensure that periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls are regarded and paid as hours of work.***

Article 11. Minimum wage. Non-discrimination based on sex. In its previous comments, taking into account that domestic workers receive the lowest minimum wage due to the fact that a monthly rate is set, the Committee requested the Government to take the necessary measures to establish a minimum hourly wage for domestic workers in the same way as for other workers. The Government reiterates that, in accordance with the provisions of the legal system, all workers are entitled to a minimum wage. The Government indicates that the tripartite National Minimum Wage Committee makes recommendations to the Government regarding minimum wage rates based on studies and research. The Committee notes the information provided by the Government on the development of minimum wage rates for domestic workers between 2000 and 2021. The Committee notes that, over a 21-year period, minimum wage rates for domestic workers have increased from 105 to 300 balboas per month in the first region and in the second region they have increased from 95 to 275 balboas per month. CONUSI reports that the minimum wage established for domestic workers is the lowest of all legally established minimum wages and is lower than the monthly cost of the family basket of essential foodstuffs. The Committee notes, however, that the Government does not provide any information on the adoption of measures to establish a minimum hourly wage for domestic workers, as for other workers. The Committee recalls that this situation may give rise to instances of wage discrimination as, in accordance with section 231(2) of the Labour Code, domestic workers may work up to 15 hours per day, given that the legal system does not establish a maximum of eight working hours per day in the same way as it has for other workers. The establishment of a minimum monthly wage for domestic work is detrimental to this group of workers in these circumstances, as they tend to work many more hours per month than other workers. With regard to equal pay, the Committee refers to its [2019 observation on the application of the Equal Remuneration Convention, 1951 \(No. 100\)](#), in which it noted the

Government's request for assistance from the Office in August 2017, in order to progress with bringing its legislation into line with the principle of Convention No. 100 and trusted that it would be provided without delay. The Committee also notes that CONUSI emphasizes the need to compile information on wages received by men and women domestic workers to identify gender-based wage discrimination in the domestic work sector. ***The Committee once again requests the Government to take the necessary measures to establish a minimum hourly wage for domestic workers in the same way as for other workers. It also requests the Government to take the necessary measures, in accordance with national practice and conditions, to ensure that the minimum wages rates established for domestic workers are fair and enable them to enjoy a decent standard of living.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 110** (Panama, Sri Lanka); **Convention No. 149** (Congo, Ghana, Guyana, Seychelles, Slovenia, Tajikistan); **Convention No. 172** (Guyana, Iraq, Lebanon, Mexico); **Convention No. 177** (Albania, Tajikistan); **Convention No. 189** (Guinea, Guyana, Ireland, Italy, Jamaica, Panama, Portugal).

► II. Observations concerning the submission to the competent authorities of the Conventions and Recommendations adopted by the International Labour Conference (article 19 of the Constitution)

Albania

Failure to submit. The Committee notes with **interest** that the Government ratified the Violence and Harassment Convention, 2019 (No. 190) on 6 May 2022. However, the Committee once again notes that the Government has not replied to its previous observations. It recalls once again that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **Referring to its previous observations, the Committee reiterates its request that the Government provide information on the submission to the Albanian Parliament of 25 instruments: the Protocol of 1995 to the Labour Inspection Convention, 1947, adopted by the Conference at its 82nd Session, the Promotion of Cooperatives Recommendation, 2002 (No. 193), the List of Occupational Diseases Recommendation, 2002 (No. 194), adopted by the Conference at its 90th Session, as well as the instruments adopted at the 78th, 84th, 86th, 89th, 92nd, 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (the Violence and Harassment Recommendation, 2019 (No. 206)).**

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Angola

Serious failure to submit. The Committee notes with **concern** that the Government has once again not provided the information requested in its previous observations. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once again reiterates its request that the Government provide the information required under article 19 of the ILO Constitution on the 19 instruments pending submission to the National Assembly. These are: the Protection of Workers' Claims (Employer's Insolvency) Recommendation, 1992 (No. 180), adopted by the Conference at its 79th Session; the Protocol of 1995 to the Labour Inspection Convention, 1947, adopted by the Conference at its 82nd Session; and the instruments adopted at the 86th, 91st, 92nd, 94th, 95th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions of the Conference (2003–19).**

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Antigua and Barbuda

Failure to submit. The Committee once again notes that the Government has not provided a reply to its 2018 direct request. It therefore recalls the information provided by the Government in April 2014

that the instruments adopted by the Conference from its 83rd to its 101st Sessions (1996–2012) were resubmitted by the Minister of Labour to the Cabinet of Antigua and Barbuda on 11 March 2014. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***In this context, the Committee reiterates its request that the Government specify the dates on which the 14 instruments adopted by the Conference from its 83rd to its 101st Sessions were submitted to the Parliament of Antigua and Barbuda. The Committee also reiterates its request that the Government provide information on the submission to Parliament of the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session, the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session, and the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019, adopted by the Conference at its 108th Session.***

Bahamas

Serious failure to submit. The Committee once again notes with **concern** that the Government has again not provided information in response to its previous observation. It once again recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee expresses the firm hope, as did the Conference Committee in June 2019, June 2021 and June 2022, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the Parliament). The Committee therefore once again firmly urges the Government to provide information on the submission to Parliament of the 26 instruments adopted by the Conference at 15 sessions held between 1997 and 2019 (85th, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions).***

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Bahrain

Failure to submit. The Committee recalls that, for a number of years, it has been requesting the Government to submit the instruments adopted by the International Labour Conference to the National Assembly in compliance with its obligation of submission pursuant to article 19 of the ILO Constitution. In this respect, it notes the information provided by the Government in its communication of 30 August 2022, in which it reiterates that: (i) it has complied with its constitutional obligations by submitting the instruments adopted by the International Labour Conference to its Council of Ministers, as the competent authority; and (ii) indicated that a new mechanism for submission of the instruments adopted by the Conference would require the revision of the Constitution of Bahrain and of a number of laws which regulate this aspect and which specify the mandate and powers of the Council of Ministers and the National Assembly.

Against this backdrop, the Committee recalls that when a State decides to become a Member of the Organization it accepts to fulfil the obligations established in the Constitution, such as the obligation to submit to the competent authorities the instruments adopted at the Conference. It emphasizes, however, that the obligation of ILO Member States to submit the instruments adopted by the Conference to the competent authorities does not imply any obligation to propose the ratification or application of the instruments in question, or to take any other specific action. Pursuant to article 19 of the ILO Constitution, Member States have complete freedom as to the nature of the proposals to be

made, if any, when submitting the instruments. Submission does not imply any obligation to propose the ratification of a Convention or Protocol, nor does it imply the application of one or more of the principles set out in an unratified Convention or a Recommendation. In this respect, the Committee once again draws the attention of the Government to the Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, adopted by the Governing Body in 2005, particularly Part I on the aims and objectives of submission.

The Committee understands that, in Bahrain, the Council of Ministers is the authority competent to ratify a Convention or Protocol, as well as to decide on any other action which it may deem appropriate in respect of the instruments adopted by the Conference (2005 Memorandum, Part I(b)). The Committee nevertheless recalls that, for the purposes of article 19 of the ILO Constitution, discussion in a deliberative assembly – or at a minimum transmission to a deliberative assembly of information concerning the instruments adopted by the International Labour Conference – is an essential component of the constitutional obligation to submit, as indicated in the 2005 Memorandum (2005 Memorandum, Part I(c) and Part II(c)). This obligation is applicable even in cases where legislative power is vested in the executive by virtue of the Constitution of the Member State. The obligation to submit is twofold: (1) to encourage ratification or application of instruments adopted by the Conference through submission to the competent authority empowered to consider ratification; and (2) to bring the instruments adopted by the Conference to the knowledge of the public through their submission to a parliamentary or deliberative body. Given the importance of the latter objective, the Committee has noted that, even in the absence of a parliamentary body, informing a consultative body makes it possible to carry out a full examination of the instruments, ensuring that they are widely disseminated among the public, which is one of the purposes of the obligation of submission (2005 Memorandum, Part II(d)).

The Committee therefore expresses the hope that the Government will take urgent measures to further examine this matter in order to ensure full compliance with this twofold obligation to submit, established in article 19 of the ILO Constitution, and that it will soon be in a position to report not only on the submission to the Council of Ministers of the 25 instruments adopted by the Conference at 14 sessions held between 2000 and 2019 (88th Session, 89th Session, 90th Session, 91st Session, 92nd Session, 94th Session, 95th Session, 96th Session, 99th Session, 100th Session, 101st Session, 103rd Session, 104th Session and 108th Session), but also on the submission of these instruments to the Consultative Council.

Belize

Serious failure to submit. The Committee notes once again with **deep concern** that the Government has provided no reply to its previous observations. It recalls once again that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. The Committee expresses the firm hope, as did the Conference Committee in June 2017, June 2018, June 2019, June 2021 and June 2022, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Assembly). ***The Committee once again urges the Government to provide information on the submission to the National Assembly of the 43 pending instruments adopted by the Conference at 22 sessions held between 1990 and 2019. It once again reminds the Government of the availability of ILO technical assistance in meeting its submission obligations.***

Plurinational State of Bolivia

Serious failure to submit. The Committee once again notes with **concern** that the Government has not provided a reply to its previous comments. It once again recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. The Committee notes that information has not been provided on the submission to the

Plurinational Legislative Assembly of 31 instruments adopted by the Conference at 20 sessions between 1993 and 2019. ***The Committee firmly urges the Government to provide information on the submission to the Plurinational Legislative Assembly of the 31 instruments adopted by the Conference since 1993 for which submission is still pending. It once again reminds the Government that it may avail itself of ILO technical assistance if it so wishes.***

Brunei Darussalam

Serious failure to submit. The Committee notes once again with **deep concern** that the Government has not replied to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore once again firmly urges the Government to provide information on the submission to the competent national authorities, within the meaning of article 19(5) and (6) of the ILO Constitution, of the 12 instruments adopted by the Conference at its 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2007–19). The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.***

Central African Republic

Submission. The Committee notes with **interest** the ratification of the Violence and Harassment Convention, 2019 (No. 190) on 9 June 2022. It notes, however, that the Government has yet again not replied to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee reiterates its request that the Government provide information on the submission to the National Assembly of the eight instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–18). It also requests that the Government provide information on the submission of the Violence and Harassment Recommendation, 2019 (No. 206), adopted by the Conference at its 108th Session.***

Chad

Serious failure to submit. The Committee notes with **concern** that the Government has once again failed to reply to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee expresses the firm hope, as did the Conference Committee in June 2022, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the Parliament).***

Therefore, the Committee once more requests the Government to provide information on the submission to Parliament of the ten instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19).

Chile

Submission. The Committee notes that the Government has not provided a reply to its previous comments. ***The Committee therefore reiterates its request that the Government provide information on the submission to the National Congress, indicating the date, of the remaining 25 instruments adopted at 16 sessions of the Conference between 1996 and 2017 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 95th (the Employment Relationship Recommendation, 2006 (No. 198)), 96th, 99th, 101st, 103rd, 104th and 106th Sessions).***

The Committee recalls that the Government may avail itself of the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Comoros

Serious failure to submit. The Committee notes once again with **deep concern** that the Government has not provided the information requested in its previous observation. The Committee recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore once more expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021 and June 2022, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. It therefore once again firmly urges the Government to provide information on the submission to the Assembly of the Union of Comoros of the 46 instruments adopted by the Conference at the 23 sessions held between 1992 and 2019.***

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Congo

Serious failure to submit. The Committee once again notes with **deep concern** that the Government has not replied to its previous observation. The Committee once more recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore once again expresses the firm hope, as did the Conference in June 2019, June 2021 and June 2022, that the Government of Congo will comply with its obligations to submit Conventions, Recommendations and Protocols to the competent authorities in the future. The Committee once again reiterates its request that the Government complete the submission procedure in relation to 67 Conventions, Recommendations and Protocols, adopted by the Conference during 32 sessions from 1970 to 2019, which have not yet been submitted to the National Assembly. It reminds the Government of the availability of ILO technical assistance to meet its constitutional submission obligations.***

Croatia

Submission. The Committee welcomes the information provided by the Government regarding the submission of the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session, to the Croatian Parliament on 17 March 2022. ***The Committee also firmly urges the Government to provide information on the submission to the Croatian Parliament of the remaining 21 instruments adopted by the Conference at 12 sessions held between 1998 and 2016 (86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions).***

Democratic Republic of the Congo

Serious failure to submit. The Committee notes with **deep regret** that the Government has yet again not replied to its previous observation. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore once again reiterates its request that the Government provide***

information on the ten instruments pending submission to Parliament, which were adopted during the past seven Sessions of the Conference (2010–19).

Dominica

Serious failure to submit. The Committee notes once again with **deep concern** that the Government has not provided a reply to its previous comments. It once more recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021, and June 2022, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore once again firmly urges the Government to provide information on the submission to the House of Assembly of the 43 instruments adopted by the Conference during 22 sessions held between 1993 and 2019 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions). It once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.**

El Salvador

Submission. The Committee welcomes the Government's communication of 25 May 2022. It notes with **interest** the ratification on 7 June 2022 of the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148), the Collective Bargaining Convention, 1981 (No. 154), the Maternity Protection Convention, 2000 (No. 183), and the Violence and Harassment Convention, 2019 (No. 190). The Committee nevertheless notes that 57 instruments remain pending submission to the Legislative Assembly. **It therefore firmly urges the Government to submit to the Legislative Assembly the 57 instruments adopted at the 25 sessions of the Conference held between October 1976 and June 2019. Moreover, it once again reiterates its request that the Government provide information on the submission of the remaining outstanding instruments adopted by the Conference at its 63rd (Convention No. 148 and Recommendations Nos 156 and 157), 67th (Convention No. 154 and Recommendation No. 163), 69th (Recommendation No. 167) and 90th (Recommendations Nos 193 and 194) Sessions.**

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Equatorial Guinea

Serious failure to submit. The Committee once again notes with **deep concern** that the Government has provided no response to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021 and June 2022, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. Accordingly, the Committee once again firmly urges the Government to provide information on the submission to Parliament of the 37 instruments adopted by the Conference**

between 1993 and 2019. It reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.

Eswatini

The Committee notes with **satisfaction** the information provided by the Government regarding the submission on 25 May 2022 to the House of Assembly of the ten instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19). **The Committee commends the efforts made by the Government in meeting its constitutional obligation of submission.**

Gabon

Serious failure to submit. The Committee once again notes with **deep concern** that the Government has provided no reply to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee firmly expects that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore once again firmly urges the Government to provide information concerning the submission to Parliament of the 27 instruments adopted at the 82nd, 83rd, 85th, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions of the Conference.**

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Gambia

Serious failure to submit. The Committee once again notes with **deep regret** that the Government has not provided a reply to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore urges the Government to provide information on the submission to the National Assembly of the ten instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19).**

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Grenada

Serious failure to submit. The Committee once again notes with **deep concern** that the Government has provided no response to its previous comments. The Committee recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **Referring to its previous observations, the Committee once again urges the Government to communicate the date on which the instruments adopted by the Conference between 1994 and 2006 were submitted to the Parliament of Grenada and to provide information on the decisions taken by the Parliament, if any, in relation to the instruments submitted. The Committee also once again urges the Government to provide information on the submission to Parliament of the 11 instruments adopted at the 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions of the Conference (2007–19). It reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.**

Guinea

Failure to submit. The Committee once again notes with **concern** that the Government has provided no response to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore once again firmly urges the Government to provide information regarding the submission to the National Assembly of the 31 instruments adopted at 17 sessions held by the Conference between October 1996 and June 2019 (84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 101st, 103rd, 104th, 106th and 108th Sessions).***

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Guinea-Bissau

Submission. The Committee notes with **concern** that the Government has yet again provided no response to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore once again urges the Government to provide information on the submission to the Assembly of the Republic of the 21 remaining instruments adopted by the Conference at its 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 108th Sessions (2001–19). It reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.***

Guyana

Serious failure to submit. The Committee notes with **concern** that the Government has once again provided no response to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore once again reiterates its request that the Government provide information on the submission to the Parliament of Guyana of the ten instruments adopted by the Conference at its 96th, 99th, 101st, 103rd, 104th, 106th and 108th Sessions. It reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.***

Haiti

Serious failure to submit. The Committee notes once again with **deep concern** that the Government has provided no response to its previous comments. It again recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021 and June 2022, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Assembly). The Committee therefore once again firmly urges the Government to provide information with regard to the submission to the National Assembly of the following 65 instruments:***

- ***the remaining instruments from the 67th Session (Conventions Nos 154 and 155, and Recommendations Nos 163 and 164);***
- ***the instruments adopted at the 68th Session;***

- *the remaining instruments adopted at the 75th Session (Convention No. 168, and Recommendations Nos 175 and 176); and*
- *the instruments adopted at 26 sessions of the Conference held between 1989 and 2019.*

The Committee reminds the Government of the availability of ILO technical assistance to assist it in meeting its constitutional obligation of submission.

Hungary

Serious failure to submit. The Committee once again notes with **deep regret** that the Government has not responded to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee accordingly once again reiterates its request that the Government provide information on the submission to the National Assembly of the ten instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19).**

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Iraq

Failure to submit. The Committee notes with **concern** that the Government has once again provided no response to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. It therefore once again recalls the detailed information provided by the Government in November 2017, including the dates of submission to the Council of Representatives (Majlis Al-Nuwaab) of each of the instruments adopted by the Conference at its 88th, 90th, 92nd, 95th, 96th, 99th, 100th and 101st Sessions (2000–12). The Committee further recalls the Government's indication that Recommendations submitted to the Council of Representatives were not examined by the Council, but were transmitted to the Ministry of Labour and Social Affairs which, according to the Government's indication, is the competent authority with respect to Recommendations. The Committee further recalls the information provided by the Government in March 2017, indicating that the Protocol of 2014 to the Forced Labour Convention, 1930, was submitted to the competent authority. It noted in this regard that no information was provided on the date of submission, or on whether the instrument in question was in fact submitted to the Council of Representatives (Majlis Al-Nuwaab).

Against this backdrop, the Committee recalls that when a State decides to become a Member of the Organization it accepts to fulfil the obligations established in the Constitution, such as the obligation to submit to the competent authorities the instruments adopted at the Conference. It emphasizes, however, that the obligation of ILO Member States to submit the instruments adopted by the Conference to the competent authorities does not imply any obligation to propose the ratification or application of the instruments in question, or to take any other specific action. Pursuant to article 19 of the ILO Constitution, Member States have complete freedom as to the nature of the proposals to be made, if any, when submitting the instruments. Submission does not imply any obligation to propose the ratification of a Convention or Protocol, nor does it imply the application of one or more of the principles set out in an unratified Convention or a Recommendation. In this respect, the Committee once again draws the attention of the Government to the 2005 Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, adopted by the Governing Body in 2005, particularly Part I on the aims and objectives of submission.

The Committee understands that, in Iraq, the Ministry of Labour and Social Affairs is considered to be the competent authority in relation to the submission of Recommendations. The Committee nevertheless recalls that, for the purposes of article 19 of the ILO Constitution, discussion in a deliberative assembly – or at a minimum provision to a deliberative assembly of information concerning all of the instruments adopted by the International Labour Conference, regardless of whether these are Conventions, Protocols or Recommendations – is an essential component of the constitutional obligation to submit, as indicated in the 2005 Memorandum (2005 Memorandum, Part I(c) and Part II(c)). This obligation is applicable even in cases where legislative power is vested in the executive, as in this case the Ministry of Labour and Social Affairs, by virtue of the Constitution of the Member State. The obligation to submit is twofold: (1) to encourage ratification or application of instruments adopted by the Conference through submission to the competent authority empowered to consider ratification; and (2) to bring the instruments adopted by the Conference to the knowledge of the public through their submission to a parliamentary or deliberative body. Given the importance of the latter objective, the Committee has noted that, even in the absence of a parliamentary body, informing a consultative body makes it possible to carry out a full examination of the instruments, ensuring that they are widely disseminated among the public, which is one of the purposes of the obligation of submission (2005 Memorandum, Part II(d)).

The Committee therefore expresses the hope that the Government will take urgent measures to further examine this matter in order to ensure full compliance with this twofold obligation to submit, established in article 19 of the ILO Constitution, and that it will soon be in a position to provide more specific information on the submission to the Council of Representatives of the remaining 12 instruments adopted by the Conference from 2000 to 2015. The Committee also reiterates its request for the Government to provide information on the submission to the Council of Representatives of the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session, and the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019, adopted by the Conference at its 108th Session (June 2019). It reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.

Kazakhstan

Failure to submit. The Committee notes with **interest** the ratification of the Part-Time Work Convention, 1994 (No. 175) on 25 May 2022. The Committee notes, however, that the Government has yet again provided no response to its previous comments. Therefore, it recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore once again urges the Government to provide information on the date of submission of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) to Parliament. Moreover, the Committee once again reiterates its request that the Government to provide information on the submission to Parliament of the remaining 38 instruments adopted by the Conference between 1993 and 2019, including with respect to the date of submission of each instrument. It reminds the Government of the availability of ILO technical assistance to meet its constitutional obligation of submission.***

Kyrgyzstan

Failure to submit. The Committee notes with **concern** that the Government has once again failed to reply to its previous comments. The Committee therefore refers yet again to the comments it has been formulating since 1994, and recalls that, under article 19 of the ILO Constitution, every Member undertakes to bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies for the enactment of legislation or

other action. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee once again firmly urges the Government to provide information on the submission to the competent national authority of the 43 instruments adopted by the Conference at 22 sessions held from 1992 to 2019. The Committee reminds the Government of the availability of ILO technical assistance to assist it in overcoming this serious delay.***

Lebanon

Serious failure to submit. The Committee once again notes with **regret** that the Government has provided no response to its previous comments. It recalls yet again that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. The Committee recalls once more the information provided by the Government in February 2016, indicating that the Ministry of Labour had submitted the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), to the Council of Ministers for consideration, and that the Council of Ministers had decided to establish a special commission to examine the Recommendation. ***The Committee yet again refers to its previous comments and urges the Government indicate the date on which the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17) were submitted to the National Assembly (Majlis Al Nuwwab), and to provide information on the submission of the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019, adopted by the Conference at its 108th Session (June 2019).***

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Liberia

Serious failure to submit. The Committee once again notes with **deep concern** that the Government has provided no response to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore once again expresses the firm hope, as did the Conference Committee in 2017, 2018, 2019, 2021 and 2022, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. It also once again reiterates its request that the Government provide information on the submission to the National Legislature of the 25 instruments adopted by the Conference at its 77th, 82nd, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions.***

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Libya

Serious failure to submit. The Committee once again notes with **deep concern** that the Government has yet again provided no reply to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021 and June 2022, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to***

the competent authorities. The Committee therefore once again reiterates its request that the Government provide information on the submission to the competent national authorities (within the meaning of article 19(5) and (6) of the ILO Constitution) of the 37 Conventions, Recommendations and Protocols adopted by the Conference at 19 sessions held between 1996 and 2019.

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Malawi

Failure to submit. The Committee once again notes with **regret** that the Government has provided no reply to its previous comments. It once more recalls the information provided by the Government concerning the submission to the President on 12 December 2018 of the HIV and AIDS Recommendation, 2010 (No. 200), adopted by the Conference at its 99th Session, the Domestic Workers Convention, 2011 (No. 189), adopted by the Conference at its 100th Session, the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session. In addition, the Government indicated that the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), was submitted to the competent authority. The Committee once again recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. While noting the Government's indication that the President is a member of the Parliament, the Committee wishes to reiterate that the obligation of submission cannot be considered to have been fulfilled until the ILO instruments adopted have reached and been submitted to the legislative body. ***The Committee therefore once again requests that the Government provide information on the submission to Parliament, and the dates of submission, of the nine instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19).***

Malaysia

Failure to submit. The Committee welcomes the ratification by Malaysia of the 1948 Protocol on Forced Labour, 1930, on 21 March 2022. It nevertheless notes that the Government has not responded to the Committee's previous comments with respect to the submission of pending instruments. The Committee therefore once again recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee reiterates its request that the Government provide information on the submission to the Parliament of Malaysia of the 12 instruments adopted by the Conference at its 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2006–19).***

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Maldives

Serious failure to submit. The Committee once again notes with **regret** that the Government has provided no response to its previous comments. The Committee again recalls that the Republic of Maldives became a Member of the Organization on 15 May 2009. Subsequently, in accordance with article 19(5)(a) and (6)(a) of the ILO Constitution, the Office communicated to the Government the text

of the Convention, Recommendations and Protocol adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions. ***The Committee therefore expresses the firm hope, as did the Conference Committee in June 2022, that the Government will comply with its constitutional obligation of submission. The Committee once again reiterates its request that the Government provide information on the submission (indicating the dates of submission) to the Parliament of the People (Majlis) of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19).***

The Committee also recalls once again that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the People's Majlis of the instruments adopted by the Conference.

Malta

Submission. The Committee notes that in a communication of 29 April 2021, the Government indicated that it was in the process of ratifying the Domestic Workers Convention, 2011 (No. 189). The Committee nevertheless notes that the Government has not provided the information requested in its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore reiterates its request that the Government provide information on the submission to the House of Representatives of the ten instruments adopted by the Conference at its 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2007–19).***

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Marshall Islands

Serious failure to submit. The Committee once again notes with ***regret*** that the Government has provided no response to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. The Committee again recalls that the Marshall Islands became a Member of the Organization on 3 July 2007. In accordance with article 19(5)(a) and (6)(a) of the ILO Constitution, the Office communicated to the Government the text of the Convention, Recommendations and the Protocol adopted by the Conference at its 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2007–19). ***The Committee once again reiterates its request that the Government provide information on the submission to Parliament of the 12 instruments adopted by the Conference between 2007 and 2019.***

The Committee recalls once more that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the ILO Constitution relating to the submission of the instruments adopted by the Conference to the competent authorities.

Mozambique

Submission. The Committee once again notes with ***regret*** that the Government has not provided a response to its previous comments. The Committee recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***It therefore firmly urges the Government to provide information on the submission to the***

Assembly of the Republic of the 33 instruments adopted by the Conference at 16 sessions held between 1996 and 2019.

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

North Macedonia

Serious failure to submit. The Committee once again notes with **deep concern** that the Government has not replied to its previous comments. The Committee recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore once again expresses the firm hope, as did the Conference Committee in June 2018, June 2019, June 2021 and June 2022, that the Government will provide information on the submission to the Assembly of the Republic (Sobranie) of 29 instruments (Conventions, Recommendations and Protocols) adopted by the Conference from October 1996 to June 2019.***

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Papua New Guinea

Serious failure to submit. The Committee notes once again with **deep concern** that the Government has provided no response to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021 and June 2022, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee firmly urges the Government to submit to the National Parliament the 25 instruments adopted by the Conference at 15 sessions held between 2000 and 2019.***

The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Republic of Moldova

Failure to submit. The Committee once again notes with **deep concern** that the Government has provided no reply to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore once again reiterates its request that the Government provide information on the submission to Parliament of the 14 instruments adopted by the Conference at its 92nd, 94th, 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd, 106th and 108th Sessions.***

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Rwanda

Serious failure to submit. Date of submission. The Committee once again notes with **regret** that the Government has provided no response to its previous comments. It once again recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **Therefore, the Committee once more firmly urges the Government to provide information on the date of submission to the National Assembly of the 38 Conventions, Recommendations and Protocols adopted by the Conference at 20 sessions held between 1993 and 2019 (80th, 82nd, 83rd, 84th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions).**

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Saint Kitts and Nevis

Serious failure to submit to the National Assembly. The Committee welcomes the information provided by the Government with respect to the tripartite consultations held in relation to the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019, and the subsequent referral of the instruments to the Council of Ministers. It nevertheless reiterates that, to fully comply with the constitutional obligation of submission set out in article 19(5)(b) and (6)(b) of the ILO Constitution, the instruments should be submitted to the authorities “within whose competence the matter lies, for the enactment of legislation”, which should normally be the legislature (in the case of Saint Kitts and Nevis, the National Assembly). The Committee expresses the firm hope, as did the Conference Committee in June 2017, June 2018, June 2019, June 2021 and June 2022, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore once again urges the Government to provide information on the submission to the National Assembly of the 27 instruments adopted by the Conference at 16 sessions held between 1996 and 2017 (83rd, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions). It further requests the Government to provide information regarding the submission to the National Assembly of the two instruments adopted by the Conference at its 108th Session in June 2019: the Violence and Harassment Convention, 2019 (No. 190) and the Violence and Harassment Recommendation, 2019 (No. 206).

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Saint Lucia

Serious failure to submit. The Committee once again notes with **deep concern** that the Government has provided no response to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee therefore once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021 and June 2022, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. It firmly urges the Government to provide information on the submission to Parliament of the 79 remaining Conventions, Recommendations and Protocols adopted by the Conference from 1980 to 2019 (66th, 67th (Convention No. 156 and Recommendations Nos 164**

and 165), 68th (Convention No. 157 and Protocol of 1982), 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th (Recommendations Nos 193 and 194), 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions).

The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

The Committee notes with **interest** the ratification of the Occupational Safety and Health Convention, 1981 (No. 155) and the Protocol of 2002 to the Occupational Safety and Health Convention, 1981 by Saint Lucia on 14 May 2021. **The Committee requests the Government to provide information on the tripartite consultations held prior to the ratifications, as required by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).**

Saint Vincent and the Grenadines

Serious failure to submit. The Committee again notes with **deep concern** that the Government has yet again failed to reply to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee once again expresses the firm hope, as did the Conference Committee in June 2017, June 2018, June 2019, June 2021 and June 2022, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the House of Assembly). It firmly urges the Government to provide information on the submission to the House of Assembly of the 31 instruments (Conventions, Recommendations and Protocols) adopted by the Conference at 17 sessions held from 1995 to 2019 (82nd, 83rd, 85th, 88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions).**

The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Seychelles

Serious failure to submit. The Committee once again notes with **deep regret** that the Government has provided no response to its previous comments. It therefore recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021 and June 2022, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Assembly). It firmly urges the Government to provide the requested information on the submission to the National Assembly of the 22 instruments adopted by the Conference at 13 sessions held from 2001 to 2019.**

The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Sierra Leone

Failure to submit. The Committee once again notes with **deep concern** that the Government has failed to reply to its previous comments. It recalls once more that the constitutional obligation of

submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore once again firmly urges the Government to provide information on the submission to Parliament of the instruments adopted by the Conference in October 1976 (Convention No. 146 and Recommendation No. 154, adopted at its 62nd Session), and all instruments adopted between 1977 and 2019 that have not been submitted. The Government is firmly urged to take steps without delay to submit all 93 pending instruments to Parliament.***

The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

The Committee also reiterates its request that the Government provide information with respect to the tripartite consultations held prior to the ratification on 25 August 2021 by Sierra Leone of eight instruments, as required by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

Solomon Islands

Serious failure to submit. The Committee once again notes with ***deep concern*** that the Government has provided no response to its previous comments. It therefore recalls yet again that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021 and June 2022, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Parliament). The Committee firmly urges the Government to take steps without delay to submit to the National Congress the 65 pending instruments adopted by the Conference between 1984 and 2019 to comply with its constitutional obligations under article 19 of the ILO Constitution and provide the required information to the International Labour Office.***

The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Somalia

Submission. The Committee notes with ***regret*** that the Government has once again not provided a reply to its 2018 observations. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee once again firmly urges the Government to take steps without delay to submit to the competent national authority the 51 instruments adopted by the Conference between 1989 and 2019 which are still pending submission and to provide the information required under article 19 of the ILO Constitution to the International Labour Office.***

The Committee once again recalls that the Government may avail itself of the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Syrian Arab Republic

Serious failure to submit. The Committee once again notes with ***deep regret*** that the Government has failed to reply to its previous comments. It once again recalls the Government's indications in

September 2015 that the Consultative Council for Consultation and Social Dialogue held discussions related to the submission of the instruments adopted by the Conference to the competent authorities. The Committee further notes that 41 instruments adopted by the Conference are still pending submission to the People's Council. In this context, the Committee recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee therefore once again expresses the firm hope, as did the Conference Committee in June 2018, June 2019, June 2021 and June 2022, that the Government will provide information on the submission to the People's Council of the 41 instruments adopted by the Conference at its 66th and 69th Sessions (Recommendations Nos 167 and 168) and at its 70th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 85th, 86th, 90th (Recommendations Nos 193 and 194), 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions. The Committee once again firmly urges the Government to take steps to submit the pending instruments without delay.***

The Committee once again recalls that the Government may avail itself of the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Timor-Leste

Serious failure to submit. The Committee notes with ***deep regret*** that the Government has not replied to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***It therefore once again reiterates its request that the Government provide information on the submission to the National Parliament of the ten instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th and 108th Sessions (2010–19).***

The Committee recalls once more that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Tuvalu

Serious failure to submit. The Committee once again notes with ***deep concern*** that the Government has provided no response to its previous comments. It recalls that Tuvalu became a Member of the Organization on 27 May 2008. In accordance with article 19(5)(a) and (6)(a) of the ILO Constitution, the Office communicated to the Government the text of the Convention, Recommendations and the Protocol adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19). The Committee recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee firmly trusts that the Government will take steps to submit without delay the ten instruments adopted by the Conference between 2010 and 2019 and provide the information required under article 19 of the ILO Constitution to the Office.***

In this context, the Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the ILO Constitution relating to the submission of the instruments adopted by the Conference to the competent authorities.

United Arab Emirates

Failure to submit. The Committee notes with **regret** that the Government has once again failed to respond to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO.

The Committee recalls that when a State decides to become a Member of the Organization it accepts to fulfil the obligations established in the Constitution, such as the obligation to submit to the competent authorities the instruments adopted at the Conference. It emphasizes, however, that the obligation of ILO Member States to submit the instruments adopted by the Conference to the competent authorities does not imply any obligation to propose the ratification or application of the instruments in question, or to take any other specific action. Pursuant to article 19 of the ILO Constitution, Member States have complete freedom as to the nature of the proposals to be made, if any, when submitting the instruments. Submission does not imply any obligation to propose the ratification of a Convention or Protocol, nor does it imply the application of one or more of the principles set out in an unratified Convention or a Recommendation. In this respect, the Committee once again draws the attention of the Government to the 2005 Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, adopted by the Governing Body in 2005, particularly Part I on the aims and objectives of submission.

The Committee understands that, in the United Arab Emirates, instruments adopted by the Conference are submitted to the Council of Ministers as the authority competent to ratify a Convention or Protocol, as well as to decide on any other action which it may deem appropriate in respect of the instruments adopted by the Conference (2005 Memorandum, Part I(b)). The Committee nevertheless recalls that, for the purposes of article 19 of the ILO Constitution, discussion in a deliberative assembly – or at a minimum, transmission to a deliberative assembly of information concerning the instruments adopted by the International Labour Conference – is an essential component of the constitutional obligation to submit, as indicated in the 2005 Memorandum (2005 Memorandum, Part I(c) and Part II(c)). This obligation is applicable even in cases where legislative power is vested in the executive by virtue of the Constitution of the Member State. The objective of submission is twofold: (1) to encourage ratification or application of instruments adopted by the Conference through submission to the competent authority empowered to consider ratification; and (2) to bring the instruments adopted by the Conference to the knowledge of the public through their submission to a parliamentary or deliberative body. Given the importance of the latter objective, the Committee has noted that, even in the absence of a parliamentary body, informing a consultative body makes it possible to carry out a full examination of the instruments, ensuring that they are widely disseminated among the public, which is one of the purposes of the obligation of submission (2005 Memorandum, Part II(d)).

The Committee therefore expresses the hope that the Government will take urgent measures to further examine this matter in order to ensure full compliance with this twofold obligation to submit, established in article 19 of the ILO Constitution, and that it will soon be in a position to provide information on the submission to the Federal National Council (Majlis Watani Ittihadi) of the 11 instruments adopted by the Conference at its 94th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2006, 2010–17). It also requests the Government to provide information on the submission to the competent national authorities of the Violence and Harassment Convention (No. 190) and the Violence and Harassment Recommendation (No. 206), 2019, adopted by the Conference at its 108th Session.

Vanuatu

Serious failure to submit. The Committee once again notes with **deep concern** that the Government has provided no reply to its previous comments. It recalls once more that the constitutional

obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018, June 2019, June 2021 and June 2022, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the Parliament of Vanuatu). The Committee firmly urges the Government to provide information on the submission to the Parliament of Vanuatu of the 18 instruments adopted by the Conference at 12 sessions held between 2003 and 2019 (91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions).***

The Committee once again recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Yemen

Serious failure to submit. The Committee notes with **deep regret** that the Government has yet again provided no response to its previous comments. It therefore once again recalls the information provided to the Conference by the Government in June 2018, indicating that it was not able to submit instruments adopted by the Conference to the House of Representatives due to the ongoing conflict in Yemen. ***While noting the complex situation in the country, particularly the ongoing conflict, the Committee trusts that, when national circumstances permit, the Government will be in a position to provide information on the submission to the House of Representatives of the 21 instruments adopted by the Conference at its 88th (Maternity Protection Recommendation, 2000 (No. 191)), 89th (Safety and Health in Agriculture Recommendation, 2001 (No. 192), 90th, 92nd (Human Resources Development Recommendation, 2004 (No. 195), 94th, 95th (Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197) and the Employment Relationship Recommendation, 2006 (No. 198), 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2000–19).***

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Zambia

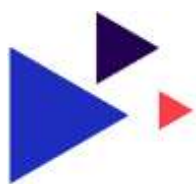
Serious failure to submit. Date of submission. The Committee notes with **concern** that the Government has yet again provided no reply to its previous comments. It recalls once more that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. The Committee again recalls the information provided by the Government in September 2010, indicating that 12 instruments adopted by the Conference from 1996 to 2007 had been submitted to the National Assembly, but without specifying the date of submission of these instruments. ***The Committee therefore reiterates its request once more that the Government indicate the dates on which the above-mentioned instruments were submitted to the National Assembly. It also urges the Government to provide information on any action taken by the National Assembly in relation to the submissions, as well as with respect to the prior tripartite consultations that took place with the social partners. Moreover, the Committee again requests the Government to provide information on the submission to the National Assembly of the ten instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions (2010–19).***

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the

Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: *Afghanistan, Algeria, Argentina, Austria, Bangladesh, Belarus, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burundi, Cabo Verde, Cameroon, Colombia, Côte d'Ivoire, Cyprus, Djibouti, Dominican Republic, Ecuador, Eritrea, Ethiopia, Georgia, Germany, Ghana, Honduras, Islamic Republic of Iran, Jamaica, Jordan, Kenya, Lao People's Democratic Republic, Lithuania, Madagascar, Mali, Mexico, Nepal, Nicaragua, Nigeria, Norway, Oman, Palau, Panama, Paraguay, Peru, Romania, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Singapore, South Africa, South Sudan, Sudan, Suriname, Sweden, Tajikistan, Thailand, Tonga, Tunisia, Turkmenistan, Uganda, Ukraine, United Republic of Tanzania, Uruguay, Bolivarian Republic of Venezuela, Viet Nam.*



Appendices

Appendix I. Reports requested on ratified Conventions registered as at 10 December 2022 (articles 22 and 35 of the Constitution)

Article 22 of the Constitution of the International Labour Organization provides that “each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of the Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request”. Article 23 of the Constitution provides that the Director-General shall lay before the next meeting of the Conference a summary of the reports communicated to him by Members in pursuance of article 22, and that each Member shall communicate copies of these reports to the representative organizations of employers and workers.

At its 204th Session (November 1977), the Governing Body approved the following arrangements for the presentation by the Director-General to the Conference of summaries of reports submitted by governments under articles 22 and 35 of the Constitution:

- (a) the practice of tabular classification of reports, without summary of their contents, which has been followed for several years in respect of reports subsequent to first reports after ratification, should be applied to all reports, including first reports;
- (b) the Director-General should make available, for consultation at the Conference, the original texts of all reports received on ratified Conventions; in addition, photocopies of the reports should be supplied on request to members of delegations.

At its 267th Session (November 1996), the Governing Body approved new measures for rationalization and simplification.

Reports received under articles 22 and 35 of the Constitution appear in simplified form in a table annexed to the report of the Committee of Experts on the Application of Conventions and Recommendations; first reports are indicated in parentheses.

Requests for consultation or copies of reports may be addressed to the secretariat of the Committee on the Application of Standards.

Appendix I. Reports requested on ratified Conventions (articles 22 and 35 of the Constitution)

List of reports registered as at 10 December 2022 and of reports not received

Note: First reports are indicated in parentheses.

Afghanistan 9 reports requested

· No reports received: Conventions Nos. 100, 105, 111, 138, 140, 141, 142, 144, 182

Albania 12 reports requested

· No reports received: Conventions Nos. 77, 78, 81, 97, 100, 111, 129, 143, 156, 177, 185, (MLC, 2006)

Algeria 5 reports requested

All reports received: Conventions Nos. 81, 87, 97, 100, 111

Angola 5 reports requested

All reports received: Conventions Nos. 81, 100, 107, 111, (144)

Antigua and Barbuda 15 reports requested

· No reports received: Conventions Nos. 11, 29, 81, 87, 98, 100, 105, 111, 122, 135, 138, 144, 151, 154, 182

Argentina 8 reports requested

· 4 reports received: Conventions Nos. 81, 129, 177, 189
· 4 reports not received: Conventions Nos. 100, 111, 156, 169

Armenia 5 reports requested

All reports received: Conventions Nos. 81, 97, 100, 111, 143

Australia 4 reports requested

All reports received: Conventions Nos. 81, 100, 111, 156

Austria 4 reports requested

All reports received: Conventions Nos. 81, 100, 111, 172

Azerbaijan 7 reports requested

All reports received: Conventions Nos. 81, 100, 105, 111, 129, 149, 156

Bahamas 11 reports requested

All reports received: Conventions Nos. 29, 81, 87, 97, 100, 105, 111, 138, 144, 182, 185

Bahrain 2 reports requested

All reports received: Conventions Nos. 81, 111

Bangladesh 6 reports requested

All reports received: Conventions Nos. 81, 87, 100, 107, 111, 149

Barbados 12 reports requested

· No reports received: Conventions Nos. 81, 87, 90, 100, 105, 111, 122, 135, 138, 144, 172, 182

Belarus 7 reports requested

All reports received: Conventions Nos. 81, 87, 100, 111, (132), 149, (176)

Belgium 11 reports requested

All reports received: Conventions Nos. 81, 97, 100, 107, 111, 129, 149, 156, 172, 177, 189

Belize	12 reports requested
<ul style="list-style-type: none"> · 6 reports received: Conventions Nos. 29, 87, 88, 98, 138, 154 · 6 reports not received: Conventions Nos. 81, 115, 140, 144, 151, 155 	
Benin	5 reports requested
All reports received: Conventions Nos. 81, 100, 111, 143, 182	
Bolivia (Plurinational State of)	18 reports requested
All reports received: Conventions Nos. 29, 77, 78, 81, 100, 111, 122, 124, 129, 131, 136, 138, 156, 162, 167, 169, 182, 189	
Bosnia and Herzegovina	10 reports requested
All reports received: Conventions Nos. 81, 97, 100, 111, 122, 129, 138, 143, 156, 177	
Botswana	6 reports requested
All reports received: Conventions Nos. 29, 100, 105, 111, 138, 182	
Brazil	8 reports requested
<ul style="list-style-type: none"> · 7 reports received: Conventions Nos. 81, 97, 98, 100, 111, (MLC, 2006), 189 · 1 report not received: Convention No. 169 	
Bulgaria	5 reports requested
All reports received: Conventions Nos. 81, 100, 111, 156, 177	
Burkina Faso	6 reports requested
All reports received: Conventions Nos. 81, 97, 100, 111, 129, 143	
Burundi	4 reports requested
<ul style="list-style-type: none"> · 1 report received: Convention No. 26 · 3 reports not received: Conventions Nos. 81, 100, 111 	
Cabo Verde	9 reports requested
All reports received: Conventions Nos. 17, 19, 81, 100, (102), 111, 118, (144), 155	
Cambodia	4 reports requested
All reports received: Conventions Nos. 13, 100, 111, 150	
Cameroon	14 reports requested
All reports received: Conventions Nos. 3, 13, 14, 19, 45, 81, 89, 95, 100, 106, 111, 131, 132, 162	
Canada	9 reports requested
All reports received: Conventions Nos. 1, 14, 26, 81, 100, 111, 160, 162, 187	
Central African Republic	21 reports requested
<ul style="list-style-type: none"> · 1 report received: Convention No. 182 · 20 reports not received: Conventions Nos. 3, 13, 14, 17, 18, 19, 52, 62, 81, 95, 100, 101, 111, 118, 119, 120, 131, 150, 155, 158 	
Chad	16 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 13, 14, 26, 29, 81, 87, 95, 100, 102, 105, 111, 122, 132, 138, 173, 182 	
Chile	21 reports requested
<ul style="list-style-type: none"> · 16 reports received: Conventions Nos. 1, 13, 14, 26, 30, 63, 100, 103, 111, 115, 127, 131, 136, 161, 162, 187 · 5 reports not received: Conventions Nos. 12, 19, 24, 25, 121 	
China	10 reports requested
All reports received: Conventions Nos. 14, 19, 26, 45, 100, 111, 150, 155, 167, 170	
China - Hong Kong Special Administrative Region	12 reports requested
All reports received: Conventions Nos. 3, 12, 14, 17, 19, 42, 81, 101, 115, 148, 150, 160	

China - Macau Special Administrative Region	16 reports requested
All reports received: Conventions Nos. 1, 14, 17, 18, 19, 26, 81, 100, 106, 111, 115, 120, 148, 150, 155, 167	
Colombia	28 reports requested
All reports received: Conventions Nos. 1, 3, 12, 13, 14, 17, 18, 19, 24, 25, 26, 30, 52, 81, 95, 99, 100, 101, 106, 111, 129, 136, 160, 161, 162, 167, 170, 174	
Comoros	24 reports requested
· No reports received: Conventions Nos. 1, 12, 13, 14, 17, 19, 26, 29, 42, 52, 81, 87, 89, 95, 98, 99, 100, 101, 105, 106, 111, 122, 138, 182	
Congo	17 reports requested
· 1 report received: Convention No. 87 · 16 reports not received: Conventions Nos. 13, 14, 26, 89, 95, 98, 100, 105, 111, 119, 138, 144, 149, (185), (MLC, 2006), 188	
Cook Islands	3 reports requested
· 2 reports received: Conventions Nos. 14, 99 · 1 report not received: Convention No. (MLC, 2006)	
Costa Rica	19 reports requested
All reports received: Conventions Nos. 1, 14, 45, 81, 89, 95, 100, 101, 102, 106, 111, 120, 127, 129, 130, 131, 148, 150, 160	
Côte d'Ivoire	22 reports requested
All reports received: Conventions Nos. 3, 13, 14, 18, 19, 26, 45, 52, 81, 95, 99, 100, 111, 129, 136, 150, 155, 160, 161, 170, 171, 187	
Croatia	24 reports requested
· No reports received: Conventions Nos. 12, 13, 14, 19, 24, 25, 45, 81, 100, 102, 103, 106, 111, 119, 121, 129, 132, 136, 139, (144), 148, 155, 161, 162	
Cuba	26 reports requested
All reports received: Conventions Nos. 1, 3, 12, 13, 14, 17, 19, 30, 42, 45, 52, 63, 81, 95, 100, 101, 106, 111, 120, 131, 136, 148, 150, 155, 183, 187	
Cyprus	19 reports requested
All reports received: Conventions Nos. 19, 81, 95, 100, 102, 106, 111, 119, 121, 128, 150, 155, 160, 162, 170, 171, 175, 183, 187	
Czechia	32 reports requested
· 16 reports received: Conventions Nos. 13, 81, 115, 120, 129, 136, 139, 148, 150, 155, 160, 161, 167, 176, 183, 187 · 16 reports not received: Conventions Nos. 1, 12, 14, 17, 19, 26, 42, 95, 99, 100, 102, 111, 128, 130, 132, 171	
Democratic Republic of the Congo	25 reports requested
· 22 reports received: Conventions Nos. 12, 19, 26, 29, 62, 81, 89, 94, 95, 100, 102, 105, 111, 117, 118, 119, 120, 121, 138, 144, 150, 182 · 3 reports not received: Conventions Nos. 14, 88, 158	
Denmark	24 reports requested
All reports received: Conventions Nos. 12, 14, 19, 52, 81, 100, 102, 106, 111, 115, 118, 119, 120, 129, 130, 139, 148, 150, 155, 160, 162, 167, 187, (188)	
Denmark - Faroe Islands	7 reports requested
All reports received: Conventions Nos. 12, 14, 18, 19, 52, 106, (188)	
Denmark - Greenland	6 reports requested
All reports received: Conventions Nos. 14, 19, 100, 106, 111, (138)	

Djibouti	29 reports requested
<ul style="list-style-type: none"> · 14 reports received: Conventions Nos. 12, 71, 81, 87, 88, 94, 96, 98, 100, 108, 111, 125, 126, 144 · 15 reports not received: Conventions Nos. 1, 13, 14, 26, 52, 63, 89, 95, 99, 101, 106, 115, 120, 122, (183) 	
Dominica	8 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 11, 22, 87, 94, 98, 108, 144, 147 	
Dominican Republic	18 reports requested
All reports received: Conventions Nos. 1, 19, 26, 45, 52, 81, 95, 100, 102, 106, 111, 119, 150, 167, 170, 171, 183, 187	
Ecuador	25 reports requested
All reports received: Conventions Nos. 45, 81, 87, 95, 98, 100, 101, 102, 103, 106, 111, 115, 118, 119, 120, 121, 127, 128, 130, 131, 136, 139, 148, 153, 162	
Egypt	24 reports requested
All reports received: Conventions Nos. 1, 14, 17, 18, 19, 30, 45, 52, 62, 63, 81, 89, 95, 100, 101, 106, 111, 115, 118, 129, 131, 139, 148, 150	
El Salvador	11 reports requested
<ul style="list-style-type: none"> · 4 reports received: Conventions Nos. 12, 129, 144, 155 · 7 reports not received: Conventions Nos. 81, 99, 100, 111, 131, 150, 160 	
Equatorial Guinea	8 reports requested
<ul style="list-style-type: none"> · 3 reports received: Conventions Nos. 1, 14, 30 · 5 reports not received: Conventions Nos. (68), 87, (92), 98, 100 	
Eritrea	6 reports requested
All reports received: Conventions Nos. 29, 98, 100, 105, 111, 138	
Estonia	10 reports requested
All reports received: Conventions Nos. 12, 13, 14, 19, 81, 100, 111, 129, 174, MLC, 2006	
Eswatini	12 reports requested
All reports received: Conventions Nos. 12, 14, 19, 45, 81, 89, 95, 100, 101, 111, 131, 160	
Ethiopia	15 reports requested
<ul style="list-style-type: none"> · 10 reports received: Conventions Nos. 29, 88, 105, 138, 155, 158, 159, 181, 182, (MLC, 2006) · 5 reports not received: Conventions Nos. 2, 14, 100, 106, 111 	
Fiji	12 reports requested
<ul style="list-style-type: none"> · 10 reports received: Conventions Nos. 12, 19, 26, 45, 81, 100, 105, 129, 155, 184 · 2 reports not received: Conventions Nos. 111, (190) 	
Finland	34 reports requested
All reports received: Conventions Nos. 12, 13, 14, 19, 47, 81, 100, 111, 115, 118, 119, 120, 121, 128, 129, 130, 132, 136, 139, 148, 150, 155, 160, 161, 162, 167, 168, 170, 173, 174, 175, 176, 184, 187	
France	28 reports requested
All reports received: Conventions Nos. 3, 12, 13, 14, 17, 19, 24, 42, 52, 62, 63, 81, 95, 100, 101, 102, 106, 111, 115, 118, 120, 127, 129, 131, 136, 139, 148, 187	
France - French Polynesia	25 reports requested
All reports received: Conventions Nos. 3, 12, 13, 14, 17, 19, 24, 37, 38, 42, 44, 52, 63, 81, 89, 95, 100, 101, 106, 111, 115, 120, 127, 129, 131	
France - French Southern and Antarctic Territories	1 report requested
All reports received: Convention No. 111	

France - New Caledonia**23 reports requested**

All reports received: Conventions Nos. 3, 12, 13, 14, 17, 19, 24, 42, 52, 63, 81, 89, 95, 100, 101, 106, 111, 115, 120, 127, 129, 131, 187

Gabon**16 reports requested**

· No reports received: Conventions Nos. 6, 11, 29, 81, 87, 98, 105, 123, 124, 135, 138, 144, 151, 154, 182, (MLC, 2006)

Gambia**7 reports requested**

All reports received: Conventions Nos. 29, 87, 98, 105, 138, 182, (MLC, 2006)

Georgia**4 reports requested**

All reports received: Conventions Nos. 29, 105, 138, 182

Germany**4 reports requested**

All reports received: Conventions Nos. 29, 105, 138, 182

Ghana**9 reports requested**

All reports received: Conventions Nos. 11, 29, 90, 100, 105, 138, 151, 182, MLC, 2006

Greece**8 reports requested**

All reports received: Conventions Nos. 29, 77, 78, 90, 105, 124, 138, 182

Grenada**9 reports requested**

· No reports received: Conventions Nos. 29, 100, 105, 111, 138, 144, 182, (MLC, 2006), (189)

Guatemala**11 reports requested**

All reports received: Conventions Nos. 29, 59, 77, 78, 79, 87, 90, 105, 124, 138, 182

Guinea**13 reports requested**

All reports received: Conventions Nos. 11, 29, 81, 87, 90, 98, 105, 114, 138, 140, 151, (167), 182

Guinea - Bissau**6 reports requested**

All reports received: Conventions Nos. 6, 26, 29, 105, 138, 182

Guyana**10 reports requested**

· 7 reports received: Conventions Nos. 11, 81, 105, 129, 135, 141, 151
· 3 reports not received: Conventions Nos. 29, 138, 182

Haiti**11 reports requested**

· No reports received: Conventions Nos. 1, 14, 30, 45, 81, 87, 90, 98, 105, 106, 107

Honduras**5 reports requested**

All reports received: Conventions Nos. 29, 78, 105, 138, 182

Hungary**17 reports requested**

All reports received: Conventions Nos. 6, 29, 77, 78, 81, 87, 98, 105, 124, 129, 135, 138, 141, 144, 151, 154, 182

Iceland**6 reports requested**

All reports received: Conventions Nos. 29, 105, 138, 182, (MLC, 2006), (187)

India**12 reports requested**

All reports received: Conventions Nos. 5, 11, 29, 81, 90, 105, 123, 138, 141, 144, 182, MLC, 2006

Indonesia**4 reports requested**

All reports received: Conventions Nos. 29, 105, 138, 182

Iran (Islamic Republic of)	3 reports requested
All reports received: Conventions Nos. 29, 105, 182	
Iraq	8 reports requested
· 1 report received: Convention No. 98	
· 7 reports not received: Conventions Nos. 29, 77, 78, 105, 138, 182, (185)	
Ireland	7 reports requested
All reports received: Conventions Nos. 6, 29, 105, 124, 138, 182, 189	
Israel	8 reports requested
All reports received: Conventions Nos. 29, 77, 78, 79, 90, 105, 138, 182	
Italy	9 reports requested
All reports received: Conventions Nos. 29, 77, 78, 79, 90, 105, 124, 138, 182	
Jamaica	9 reports requested
All reports received: Conventions Nos. 11, 29, 81, 87, 98, 105, 138, 144, 182	
Japan	3 reports requested
All reports received: Conventions Nos. 29, 138, 182	
Jordan	9 reports requested
· 6 reports received: Conventions Nos. 29, 98, 135, 138, 144, 182	
· 3 reports not received: Conventions Nos. 105, 124, 142	
Kazakhstan	7 reports requested
All reports received: Conventions Nos. 29, 81, 87, 105, 129, 138, 182	
Kenya	13 reports requested
· 10 reports received: Conventions Nos. 11, 29, 81, 98, 129, 135, 141, 142, 144, MLC, 2006	
· 3 reports not received: Conventions Nos. 105, 138, 182	
Kiribati	9 reports requested
· 7 reports received: Conventions Nos. 29, 87, 98, 105, 138, (144), 182	
· 2 reports not received: Conventions Nos. 111, MLC, 2006	
Kuwait	5 reports requested
All reports received: Conventions Nos. 29, 81, 105, 138, 182	
Kyrgyzstan	9 reports requested
All reports received: Conventions Nos. 29, 77, 78, 79, 90, 105, 124, 138, 182	
Lao People's Democratic Republic	4 reports requested
· No reports received: Conventions Nos. 6, 29, 138, 182	
Latvia	6 reports requested
All reports received: Conventions Nos. 29, 105, 108, 138, 182, MLC, 2006	
Lebanon	37 reports requested
· No reports received: Conventions Nos. 1, 14, 17, 19, 29, 30, 45, 52, 71, 81, 88, 89, 95, 98, 100, 105, 106, 111, 115, 120, 122, 127, 131, 136, 138, 139, 142, 148, 150, 152, 159, 170, 172, 174, 176, 182, (MLC, 2006)	
Lesotho	7 reports requested
· 5 reports received: Conventions Nos. 29, 45, 105, 138, 182	
· 2 reports not received: Conventions Nos. 81, 135	
Liberia	9 reports requested
· 3 reports received: Conventions Nos. 29, 87, 105	
· 6 reports not received: Conventions Nos. 108, 112, 113, 114, 182, MLC, 2006	

Libya**6 reports requested**

· No reports received: Conventions Nos. 29, 52, 89, 105, 138, 182

Lithuania**8 reports requested**

All reports received: Conventions Nos. 27, 29, 105, 108, 138, 182, MLC, 2006, 188

Luxembourg**17 reports requested**

All reports received: Conventions Nos. 12, 19, 26, 27, 29, 87, 98, 102, 105, 121, 130, 138, 150, (169), 182, 185, MLC, 2006

Madagascar**34 reports requested**

All reports received: Conventions Nos. 12, 13, 14, 19, 26, 29, 81, 87, 88, 95, 98, 100, 105, 111, 117, 118, 119, 120, 122, 127, 129, 132, 138, (143), 144, (151), (154), 159, 171, 173, (181), 182, 185, (189)

Malawi**16 reports requested**

· 7 reports received: Conventions Nos. 29, 111, 138, 155, 182, 184, 187
 · 9 reports not received: Conventions Nos. 12, 19, 26, 81, 89, 99, 105, 129, 150

Malaysia**4 reports requested**

All reports received: Conventions Nos. 29, 98, 138, 182

Maldives**5 reports requested**

All reports received: Conventions Nos. 29, 105, 138, 182, 185

Mali**4 reports requested**

All reports received: Conventions Nos. 29, 105, 138, 182

Malta**13 reports requested**

· No reports received: Conventions Nos. 12, 13, 19, 29, 32, 42, 95, 105, 108, 131, 138, 182, MLC, 2006

Marshall Islands**3 reports requested**

· 2 reports received: Conventions Nos. 185, MLC, 2006
 · 1 report not received: Convention No. (182)

Mauritania**9 reports requested**

All reports received: Conventions Nos. 22, 23, 29, 58, 105, 112, 114, 138, 182

Mauritius**7 reports requested**

All reports received: Conventions Nos. 29, 32, 105, 108, 137, 138, 182

Mexico**16 reports requested**

All reports received: Conventions Nos. 22, 27, 29, 55, 56, 58, 105, 108, 134, 138, 152, 163, 164, 166, 182, (189)

Mongolia**6 reports requested**

· 2 reports received: Conventions Nos. 181, 182
 · 4 reports not received: Conventions Nos. 29, 105, 138, (167)

Montenegro**16 reports requested**

· No reports received: Conventions Nos. 12, 19, 24, 25, 27, 29, 102, 105, 113, 114, 121, 126, 138, 152, 182, 185

Morocco**34 reports requested**

· 30 reports received: Conventions Nos. 12, 13, 14, 17, 19, 27, 29, 30, 42, 45, 52, 81, (97), 98, 99, 101, (102), 105, 106, 108, 119, 129, 131, 136, 144, 150, 162, 176, 183, (187)
 · 4 reports not received: Conventions Nos. 138, 182, MLC, 2006, 188

Mozambique	5 reports requested
<ul style="list-style-type: none"> · 4 reports received: Conventions Nos. 29, 88, 138, 182 · 1 report not received: Convention No. 105 	
Myanmar	7 reports requested
All reports received: Conventions Nos. 27, 29, 87, (138), 182, 185, MLC, 2006	
Namibia	6 reports requested
All reports received: Conventions Nos. 29, 105, 138, 182, (189), (190)	
Nepal	4 reports requested
All reports received: Conventions Nos. 29, 105, 138, 182	
Netherlands	10 reports requested
All reports received: Conventions Nos. 12, 19, 27, 29, 71, 105, 138, 152, 182, MLC, 2006	
Netherlands - Aruba	11 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 22, 23, 29, 69, 105, 113, 114, 138, 146, 147, 182 	
Netherlands - Caribbean Part of the Netherlands	6 reports requested
All reports received: Conventions Nos. 22, 23, 29, 58, 69, 105	
Netherlands - Curaçao	4 reports requested
All reports received: Conventions Nos. 29, 105, 182, MLC, 2006	
Netherlands - Sint Maarten	18 reports requested
<ul style="list-style-type: none"> · 12 reports received: Conventions Nos. 12, 14, 17, 25, 42, 81, 87, 95, 101, 106, 118, 144 · 6 reports not received: Conventions Nos. 22, 23, 29, 58, 69, 105 	
New Zealand	4 reports requested
All reports received: Conventions Nos. 29, 32, 105, 182	
New Zealand - Tokelau	2 reports requested
All reports received: Conventions Nos. 29, 105	
Nicaragua	8 reports requested
All reports received: Conventions Nos. 27, 29, 87, 105, 137, 138, 182, MLC, 2006	
Niger	4 reports requested
All reports received: Conventions Nos. 29, 105, 138, 182	
Nigeria	11 reports requested
All reports received: Conventions Nos. 19, 26, 29, 32, 45, 95, 105, 137, 138, 182, 185	
North Macedonia	44 reports requested
<ul style="list-style-type: none"> · 26 reports received: Conventions Nos. 13, 14, 19, 22, 23, 27, 29, 32, 45, 56, 69, 92, 98, 102, 105, 113, 114, 121, 126, 131, 132, 136, 144, 155, 162, 187 · 18 reports not received: Conventions Nos. 3, 12, 24, 25, 81, 87, 106, 119, 129, 138, 139, (141), 148, 150, 161, (171), 182, 183 	
Norway	13 reports requested
All reports received: Conventions Nos. 13, 27, 29, 71, 105, 108, 119, 137, 138, 152, 182, MLC, 2006, 188	
Pakistan	4 reports requested
All reports received: Conventions Nos. 11, 87, 98, 144	
Palau	1 report requested
All reports received: Convention No. (182)	
Panama	5 reports requested
All reports received: Conventions Nos. 11, 87, 98, 122, 144	

Papua New Guinea	6 reports requested
· No reports received: Conventions Nos. 11, 29, 87, 98, 122, 158	
Paraguay	4 reports requested
All reports received: Conventions Nos. 11, 87, 98, 122	
Peru	6 reports requested
All reports received: Conventions Nos. 11, 87, 98, 122, 144, 151	
Philippines	6 reports requested
All reports received: Conventions Nos. 87, 98, 122, 141, 144, 151	
Poland	8 reports requested
All reports received: Conventions Nos. 11, 87, 98, 122, 135, 141, 144, 151	
Portugal	7 reports requested
All reports received: Conventions Nos. 11, 87, 98, 122, 135, 144, 151	
Republic of Korea	2 reports requested
All reports received: Conventions Nos. 138, 182	
Republic of Moldova	7 reports requested
· 5 reports received: Conventions Nos. 29, 105, 138, 182, 185	
· 2 reports not received: Conventions Nos. 92, 133	
Romania	9 reports requested
· No reports received: Conventions Nos. 11, 87, 98, 100, 111, 122, 135, 144, 154	
Russian Federation	8 reports requested
All reports received: Conventions Nos. 11, 87, 98, 122, 135, 144, 151, 154	
Rwanda	8 reports requested
All reports received: Conventions Nos. 11, 87, 98, 122, 123, 135, 144, 154	
Saint Kitts and Nevis	4 reports requested
All reports received: Conventions Nos. 87, 98, 144, MLC, 2006	
Saint Lucia	9 reports requested
· No reports received: Conventions Nos. 11, 12, 87, 94, 97, 98, 105, 108, 158	
Saint Vincent and the Grenadines	5 reports requested
All reports received: Conventions Nos. 11, 87, 98, 122, 144	
Samoa	6 reports requested
· 2 reports received: Conventions Nos. (144), MLC, 2006	
· 4 reports not received: Conventions Nos. 87, 98, 100, 111	
San Marino	17 reports requested
All reports received: Conventions Nos. 29, 87, 98, 100, 105, 111, 119, 138, 142, 143, 144, 151, 154, 156, 161, 182, (183)	
Sao Tome and Principe	11 reports requested
· 4 reports received: Conventions Nos. 100, 138, 182, (183)	
· 7 reports not received: Conventions Nos. 87, 98, 111, 135, 144, 151, 154	
Saudi Arabia	2 reports requested
All reports received: Conventions Nos. (95), (120)	
Senegal	6 reports requested
All reports received: Conventions Nos. 11, 87, 98, 122, 135, 144	

Serbia	12 reports requested
All reports received: Conventions Nos. 11, 87, 97, 98, 100, 111, 122, 135, 143, 144, 156, (184)	
Seychelles	5 reports requested
All reports received: Conventions Nos. 11, 87, 98, 144, 151	
Sierra Leone	3 reports requested
All reports received: Conventions Nos. 87, 98, 144	
Singapore	5 reports requested
<ul style="list-style-type: none"> · 2 reports received: Conventions Nos. 98, (155) · 3 reports not received: Conventions Nos. 11, 100, 144 	
Slovakia	8 reports requested
All reports received: Conventions Nos. 11, 87, 98, 122, 135, 144, 151, 154	
Slovenia	14 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 11, 87, 97, 98, 100, 111, 122, 135, 143, 144, 149, 151, 154, 156 	
Solomon Islands	7 reports requested
All reports received: Conventions Nos. 11, 81, 87, 98, 100, 111, 182	
Somalia	14 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 17, 19, 22, 23, 29, 45, 84, 85, 87, 94, 95, 98, 105, 111 	
South Africa	3 reports requested
All reports received: Conventions Nos. 87, 98, 144	
South Sudan	7 reports requested
<ul style="list-style-type: none"> · 1 report received: Convention No. 29 · 6 reports not received: Conventions Nos. 98, 100, 105, 111, 138, 182 	
Spain	9 reports requested
All reports received: Conventions Nos. 11, 87, 98, 122, 135, 141, 144, 151, 154	
Sri Lanka	8 reports requested
<ul style="list-style-type: none"> · 7 reports received: Conventions Nos. 11, 87, 98, 100, 111, 135, 144 · 1 report not received: Convention No. 122 	
Sudan	6 reports requested
<ul style="list-style-type: none"> · 5 reports received: Conventions Nos. 98, 100, 111, 122, (175) · 1 report not received: Convention No. (MLC, 2006) 	
Suriname	10 reports requested
All reports received: Conventions Nos. 11, 87, 98, 100, 111, 122, 135, 144, 151, 154	
Sweden	9 reports requested
All reports received: Conventions Nos. 11, 87, 98, 122, 135, 141, 144, 151, 154	
Switzerland	8 reports requested
All reports received: Conventions Nos. 11, 87, 98, 122, 141, 144, 151, 154	
Syrian Arab Republic	12 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 11, 29, 87, 98, 100, 105, 107, 111, 135, 138, 144, 182 	
Tajikistan	25 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 23, 27, 32, 69, 87, 92, 95, 98, 100, 103, 105, 108, 111, 113, 122, 124, 126, 133, 134, 142, 144, 147, 149, 159, 177 	

Thailand	4 reports requested
<ul style="list-style-type: none"> · 3 reports received: Conventions Nos. 88, 122, MLC, 2006 · 1 report not received: Convention No. 159 	
Timor-Leste	4 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 87, 98, 100, 111 	
Togo	4 reports requested
All reports received: Conventions Nos. 87, 98, 122, 144	
Tonga	1 report requested
<ul style="list-style-type: none"> · No reports received: Convention No. (182) 	
Trinidad and Tobago	6 reports requested
<ul style="list-style-type: none"> · 5 reports received: Conventions Nos. 87, 98, 125, 144, 159 · 1 report not received: Convention No. 122 	
Tunisia	10 reports requested
All reports received: Conventions Nos. 87, 88, 98, 117, 122, 142, 144, 159, 185, (MLC, 2006)	
Türkiye	10 reports requested
All reports received: Conventions Nos. 87, 88, 94, 96, 98, 122, 142, 144, 158, 159	
Turkmenistan	4 reports requested
All reports received: Conventions Nos. 87, 98, 105, 144	
Tuvalu	2 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. (182), MLC, 2006 	
Uganda	18 reports requested
<ul style="list-style-type: none"> · 6 reports received: Conventions Nos. 11, 29, 81, 87, 98, 105 · 12 reports not received: Conventions Nos. 26, 94, 95, 100, 111, 122, 138, 144, 158, 159, 162, 182 	
Ukraine	19 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 2, 87, 98, 115, 117, 119, 120, 122, 139, 140, 142, 144, 155, 158, 159, 161, 174, 176, 184 	
United Kingdom of Great Britain and Northern Ireland	9 reports requested
All reports received: Conventions Nos. 2, 82, 87, 98, 122, 140, 142, 144, MLC, 2006	
United Kingdom - Anguilla	6 reports requested
All reports received: Conventions Nos. 82, 85, 87, 94, 98, 140	
United Kingdom - Bermuda	4 reports requested
All reports received: Conventions Nos. 82, 87, 94, 98	
United Kingdom - British Virgin Islands	6 reports requested
<ul style="list-style-type: none"> · 4 reports received: Conventions Nos. 85, 87, 98, 108 · 2 reports not received: Conventions Nos. 82, 94 	
United Kingdom - Cayman Islands	1 report requested
All reports received: Convention No. MLC, 2006	
United Kingdom - Falkland Islands (Malvinas)	4 reports requested
<ul style="list-style-type: none"> · No reports received: Conventions Nos. 82, 87, 98, (MLC, 2006) 	

United Kingdom - Gibraltar	5 reports requested
All reports received: Conventions Nos. 2, 82, 87, 98, 142	
United Kingdom - Guernsey	5 reports requested
· No reports received: Conventions Nos. 2, 87, 98, 122, 142	
United Kingdom - Isle of Man	8 reports requested
All reports received: Conventions Nos. 2, 87, 98, (100), (111), 122, (138), MLC, 2006	
United Kingdom - Jersey	4 reports requested
· No reports received: Conventions Nos. 2, 87, 98, 140	
United Kingdom - Montserrat	4 reports requested
All reports received: Conventions Nos. 82, 85, 87, 98	
United Kingdom - St Helena	5 reports requested
All reports received: Conventions Nos. 82, 85, 87, 98, 150	
United Republic of Tanzania	11 reports requested
All reports received: Conventions Nos. 87, 94, 98, 100, 111, 137, 140, 142, 144, 152, (MLC, 2006)	
United Republic of Tanzania - Tanganyika	1 report requested
All reports received: Convention No. 88	
United Republic of Tanzania - Zanzibar	2 reports requested
All reports received: Conventions Nos. 58, 85	
United States of America	1 report requested
All reports received: Convention No. 144	
United States of America - American Samoa	1 report requested
All reports received: Convention No. 144	
United States of America - Guam	1 report requested
All reports received: Convention No. 144	
United States of America - Northern Mariana Islands	1 report requested
All reports received: Convention No. 144	
United States of America - Puerto Rico	1 report requested
All reports received: Convention No. 144	
United States of America - United States Virgin Islands	1 report requested
All reports received: Convention No. 144	
Uruguay	8 reports requested
All reports received: Conventions Nos. 87, 94, 98, 122, 144, 159, 181, (190)	
Uzbekistan	4 reports requested
· 2 reports received: Conventions Nos. 87, 98	
· 2 reports not received: Conventions Nos. 122, 144	
Vanuatu	9 reports requested
· No reports received: Conventions Nos. 29, 87, 98, 100, 105, 111, (138), 182, 185	
Venezuela (Bolivarian Republic of)	17 reports requested
All reports received: Conventions Nos. 13, 26, 45, 87, 88, 95, 98, 117, 120, 122, 127, 139, 140, 142, 144, 155, 158	

Viet Nam**7 reports requested**

All reports received: Conventions Nos. 27, 88, 98, (105), 122, 144, (159)

Yemen**13 reports requested**

· No reports received: Conventions Nos. 19, 58, 81, 87, 94, 98, 100, 111, 122, 144, 158, 159, 185

Zambia**8 reports requested**

All reports received: Conventions Nos. 87, 98, 117, 122, 144, 158, 159, 181

Zimbabwe**5 reports requested**

All reports received: Conventions Nos. 87, 98, 140, 144, 159

Grand TotalA total of 1,915 reports (article 22) were requested,
of which 1,334 reports (69.66 per cent) were received.A total of 188 reports (article 35) were requested,
of which 156 reports (82.98 per cent) were received.

Appendix II. Statistical table of reports received on ratified Conventions as at 10 December 2022 (article 22 of the Constitution)

Year of the session of the Committee of Experts	Reports requested	Reports received at the date requested		Reports registered for the session of the Committee of Experts		Reports registered for the session of the Conference	
1932	447	-		406	90.8%	423	94.6%
1933	522	-		435	83.3%	453	86.7%
1934	601	-		508	84.5%	544	90.5%
1935	630	-		584	92.7%	620	98.4%
1936	662	-		577	87.2%	604	91.2%
1937	702	-		580	82.6%	634	90.3%
1938	748	-		616	82.4%	635	84.9%
1939	766	-		588	76.8%	-	
1944	583	-		251	43.1%	314	53.9%
1945	725	-		351	48.4%	523	72.2%
1946	731	-		370	50.6%	578	79.1%
1947	763	-		581	76.1%	666	87.3%
1948	799	-		521	65.2%	648	81.1%
1949	806	134	16.6%	666	82.6%	695	86.2%
1950	831	253	30.4%	597	71.8%	666	80.1%
1951	907	288	31.7%	507	77.7%	761	83.9%
1952	981	268	27.3%	743	75.7%	826	84.2%
1953	1026	212	20.6%	840	75.7%	917	89.3%
1954	1175	268	22.8%	1077	91.7%	1119	95.2%
1955	1234	283	22.9%	1063	86.1%	1170	94.8%
1956	1333	332	24.9%	1234	92.5%	1283	96.2%
1957	1418	210	14.7%	1295	91.3%	1349	95.1%
1958	1558	340	21.8%	1484	95.2%	1509	96.8%
As a result of a decision by the Governing Body, detailed reports were requested as from 1959 until 1976 only on certain Conventions							
1959	995	200	20.4%	864	86.8%	902	90.6%
1960	1100	256	23.2%	838	76.1%	963	87.4%
1961	1362	243	18.1%	1090	80.0%	1142	83.8%
1962	1309	200	15.5%	1059	80.9%	1121	85.6%
1963	1624	280	17.2%	1314	80.9%	1430	88.0%
1964	1495	213	14.2%	1268	84.8%	1356	90.7%
1965	1700	282	16.6%	1444	84.9%	1527	89.8%
1966	1562	245	16.3%	1330	85.1%	1395	89.3%
1967	1883	323	17.4%	1551	84.5%	1643	89.6%
1968	1647	281	17.1%	1409	85.5%	1470	89.1%
1969	1821	249	13.4%	1501	82.4%	1601	87.9%
1970	1894	360	18.9%	1463	77.0%	1549	81.6%
1971	1992	237	11.8%	1504	75.5%	1707	85.6%
1972	2025	297	14.6%	1572	77.6%	1753	86.5%
1973	2048	300	14.6%	1521	74.3%	1691	82.5%
1974	2189	370	16.5%	1854	84.6%	1958	89.4%
1975	2034	301	14.8%	1663	81.7%	1764	86.7%
1976	2200	292	13.2%	1831	83.0%	1914	87.0%

Year of the session of the Committee of Experts	Reports requested	Reports received at the date requested		Reports registered for the session of the Committee of Experts		Reports registered for the session of the Conference	
As a result of a decision by the Governing Body (November 1976), detailed reports were requested as from 1977 until 1994, according to certain criteria, at yearly, two-yearly or four-yearly intervals							
1977	1529	215	14.0%	1120	73.2%	1328	87.0%
1978	1701	251	14.7%	1289	75.7%	1391	81.7%
1979	1593	234	14.7%	1270	79.8%	1376	86.4%
1980	1581	168	10.6%	1302	82.2%	1437	90.8%
1981	1543	127	8.1%	1210	78.4%	1340	86.7%
1982	1695	332	19.4%	1382	81.4%	1493	88.0%
1983	1737	236	13.5%	1388	79.9%	1558	89.6%
1984	1669	189	11.3%	1286	77.0%	1412	84.6%
1985	1666	189	11.3%	1312	78.7%	1471	88.2%
1986	1752	207	11.8%	1388	79.2%	1529	87.3%
1987	1793	171	9.5%	1408	78.4%	1542	86.0%
1988	1636	149	9.0%	1230	75.9%	1384	84.4%
1989	1719	196	11.4%	1256	73.0%	1409	81.9%
1990	1958	192	9.8%	1409	71.9%	1639	83.7%
1991	2010	271	13.4%	1411	69.9%	1544	76.8%
1992	1824	313	17.1%	1194	65.4%	1384	75.8%
1993	1906	471	24.7%	1233	64.6%	1473	77.2%
1994	2290	370	16.1%	1573	68.7%	1879	82.0%
As a result of a decision by the Governing Body (November 1993), detailed reports on only five Conventions were exceptionally requested in 1995							
1995	1252	479	38.2%	824	65.8%	988	78.9%
As a result of a decision by the Governing Body (November 1993), reports were requested, according to certain criteria, at yearly, two-yearly or five-yearly intervals							
1996	1806	362	20.5%	1145	63.3%	1413	78.2%
1997	1927	553	28.7%	1211	62.8%	1438	74.6%
1998	2036	463	22.7%	1264	62.1%	1455	71.4%
1999	2288	520	22.7%	1406	61.4%	1641	71.7%
2000	2550	740	29.0%	1798	70.5%	1952	76.6%
2001	2313	598	25.9%	1513	65.4%	1672	72.2%
2002	2368	600	25.3%	1529	64.5%	1701	71.8%
2003	2344	568	24.2%	1544	65.9%	1701	72.6%
2004	2569	659	25.6%	1645	64.0%	1852	72.1%
2005	2638	696	26.4%	1820	69.0%	2065	78.3%
2006	2586	745	28.8%	1719	66.5%	1949	75.4%
2007	2478	845	34.1%	1611	65.0%	1812	73.2%
2008	2515	811	32.2%	1768	70.2%	1962	78.0%
2009	2733	682	24.9%	1853	67.8%	2120	77.6%
2010	2745	861	31.4%	1866	67.9%	2122	77.3%
2011	2735	960	35.1%	1855	67.8%	2117	77.4%

Year of the session of the Committee of Experts	Reports requested	Reports received at the date requested	Reports registered for the session of the Committee of Experts	Reports registered for the session of the Conference
As a result of a decision by the Governing Body (November 2009 and March 2011), reports are requested, according to certain criteria, at yearly, three-yearly or five-yearly intervals				
2012	2207	809 36.7%	1497 67.8%	1742 78.9%
2013	2176	740 34.1%	1578 72.5%	1755 80.6%
2014	2251	875 38.9%	1597 70.9%	1739 77.2%
2015	2139	829 38.8%	1482 69.3%	1617 75.6%
2016	2303	902 39.2%	1600 69.5%	1781 77.3%
2017	2083	785 37.7%	1386 66.5%	1543 74.1%
2018	1683	571 33.9%	1038 61.7%	1194 70.9%
As a result of a decision by the Governing Body (November 2018), reports are requested, according to certain criteria, at yearly, three-yearly or six-yearly intervals				
2019	1788	645 36.1%	1217 68.1%	ILC 2020 deferred due to the COVID-19 pandemic
In light of the deferral of 109th Session of the Conference to June 2021 due to the COVID-19 pandemic, the Governing Body decided in March 2020 to invite Member States to provide supplementary information on reports submitted in 2019, highlighting relevant developments, if any, on the application of the provisions of Conventions under review that might have occurred in the meantime. In addition, reports were requested on the basis of a footnote adopted by the Committee requesting a report for 2020 and on the follow-up of failures to submit reports				
2020	1796	394 21.9%	712 39.6%	768 42.8%
As a result of a decision by the Governing Body (November 2018), reports are requested, according to certain criteria, at yearly, three-yearly or six-yearly intervals				
2021	1865	747 40.0%	1230 65.9%	1383 74.2%
2022	1915	787 41.1%	1334 69.7%	

Appendix III. List of observations made by employers' and workers' organizations

Algeria

- General and Autonomous Confederation of Workers in Algeria (CGATA)
- General Confederation of Algerian Enterprises (CGEA)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87, 98
100
87, 98

Argentina

- Argentine Building Workers Union (UOCRA)
- General Confederation of Labour of the Argentine Republic (CGT RA)
- Latin American and Caribbean Confederation of Domestic Workers (CONLACTRAHO)

on Conventions Nos

87
81, 100, 111, 129, 156, 169, 177, 189
189

Armenia

- Confederation of Trade Unions of Armenia (CTUA)

on Conventions Nos

81, 100, 131

Australia

- Australian Council of Trade Unions (ACTU)

on Conventions Nos

81, 100, 111, 156

Austria

- Austrian Chamber of Labour (AK)
- Austrian Federal Economic Chamber (WKÖ)

on Conventions Nos

81, 100, 111, 172
81, 100, 111, 172

Azerbaijan

- Azerbaijan Trade Unions Confederation (ATUC)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

105
105
105

Bahrain

- General Federation of Bahrain Trade Unions (GFBTU)

on Conventions Nos

81, 111

Bangladesh

- Bangladesh Employers' Federation (BEF)
- International Trade Union Confederation (ITUC)
- Trade Union's International Labour Standards Committee (TU-ILS Committee)

on Conventions Nos

81, 87, 100, 107, 111, 149
87, 98
81, 87, 111, 149

Belarus

- Belarusian Congress of Democratic Trade Unions (BKDP)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

29, 105
87
87, 98

Belgium

- General Labour Federation of Belgium (FGTB); Confederation of Christian Trade Unions (CSC); General Confederation of Liberal Trade Unions of Belgium (CGSLB)

on Conventions Nos

29, 81, 97, 98, 100, 111, 129, 156, 172, 189

Benin

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

182
182

Bolivia (Plurinational State of)

- Latin American and Caribbean Confederation of Domestic Workers (CONLACTRAHO)

on Convention No.

189

Botswana

- Botswana Federation of Trade Unions (BFTU)

on Conventions Nos
87, 98

Brazil

- International Organisation of Employers (IOE); National Confederation of Industry (CNI)
- International Trade Union Confederation (ITUC)
- Latin American and Caribbean Confederation of Domestic Workers (CONLACTRAHO)
- National Association of Labour Court Judges (ANAMATRA)
- National Confederation of Workers in Teaching Establishments (CONTEE)
- National Confederation of Workers in Waterway and Air Transports, Fishing and Ports (CONTTMAF)
- National Union of Labour Inspectors (SINAIT)
- Single Confederation of Workers (CUT)
- Single Confederation of Workers (CUT); National Federation of Caixa Econômica Federal Staff Associations (FENAE); Brasilia Bank Workers Union (Bancários/DF)

on Conventions Nos
81, 97, 98, 100, 111
98
189
29, 138, 182
98, 154
MLC, 2006
81
98, 100, 111, 151, 154, 169, 189
111

Bulgaria

- Bulgarian Chamber of Commerce and Industry (BCCI)

on Convention No.
131

Burundi

- Trade Union Confederation of Burundi (COSYBU)

on Conventions Nos
26, 81, 100, 111

Cambodia

- International Trade Union Confederation (ITUC)

on Convention No.
87

Cameroon

- Cameroon Workers' Trade Union Confederation (CSTC)
- Confederation of Autonomous Trade Unions of Cameroon (CSAC)
- Trade Union Confederation National Agreement of Workers of Cameroon

on Conventions Nos
3, 13, 14, 19, 45, 81, 89, 95, 100, 106,
131, 132, 162
87, 111
111

Canada

- Quebec Interprofessional Health Federation (FIQ)

on Conventions Nos
29, 105

Central African Republic

- International Trade Union Confederation (ITUC)

on Convention No.
182

China

- International Trade Union Confederation (ITUC)

on Convention No.
111

China - Hong Kong Special Administrative Region

- International Trade Union Confederation (ITUC)

on Convention No.
87

Colombia

- General Confederation of Labour (CGT); Confederation of Workers of Colombia (CTC); Single Confederation of Workers of Colombia (CUT)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- National Employers Association of Colombia (ANDI)
- Trade Union of Workers in the Hydrocarbons, Energy and Mining Sectors, and Similar Enterprises (USTRASEN); Trade Union Federation of Workers in Operating and Contracting Activities and Services Enterprises in the Oil, Petrochemicals, Biofuel and Similar Energies Branch (USTRAPETROQUIMICA)

on Conventions Nos

1, 3, 12, 13, 14, 17, 18, 19, 26, 30, 52, 81, 87, 95, 98, 99, 100, 111, 129, 136, 174
1, 3, 14, 18, 26, 81, 95, 99, 100, 111, 160, 162, 170, 174
87, 98
1, 3, 14, 17, 26, 81, 95, 99, 100, 111, 160
87, 98, 111

Costa Rica

- Confederation of Workers Rerum Novarum (CTRN); Costa Rican Workers' Movement Central (CMTC); General Confederation of Workers (CGT); Workers' Unitary Confederation (CUT)
- Confederation of Workers Rerum Novarum (CTRN); Costa Rican Workers' Movement Central (CMTC); General Confederation of Workers (CGT); Workers' Unitary Confederation (CUT); Costa Rican Trade Union and Social Unity Bloc (BUSSCO)
- Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP)

on Conventions Nos

102, 129, 144
1
1, 14, 81, 89, 95, 100, 101, 102, 106, 111, 120, 127, 131, 150, 160

Cuba

- Independent Trade Union Association of Cuba (ASIC)

on Conventions Nos

120, 155, 187

Denmark

- Danish Trade Union Confederation (FH); Danish Confederation of Professional Associations (AC)

on Convention No.

81

Djibouti

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

122
122

Dominican Republic

- National Confederation of Trade Union Unity (CNUS); Autonomous Confederation of Workers' Unions (CASC); National Confederation of Dominican Workers (CNTD)

on Conventions Nos

111, 183

Ecuador

- Ecuadorian Confederation of Free Trade Unions (CEOSL); Ecuadorian Federation of Municipal and Provincial Workers (FETMYP); National Ecuadorian Federation of workers of provincial governments (FENOGOPRE); National Federation of Education Workers (UNE)
- International Trade Union Confederation (ITUC)
- Public Services International (PSI) in Ecuador; Ecuadorian Confederation of Free Trade Unions (CEOSL); National Federation of Education Workers (UNE); Federation of Petroleum Workers of Ecuador (FETRAPEC)
- Trade Union Association of Agricultural, Banana and Rural Workers (ASTAC)

on Conventions Nos

81, 131
87
87, 98
81, 87, 98, 102

El Salvador

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87, 144
144

Eswatini

- International Trade Union Confederation (ITUC)

on Convention No.

131

Fiji

- Fiji Trades Union Congress (FTUC)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

105, 182
105
105

Finland

- Central Organization of Finnish Trade Unions (SAK)
- Central Organization of Finnish Trade Unions (SAK); Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA)
- Central Organization of Finnish Trade Unions (SAK); Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA); Finnish Confederation of Professionals (STTK)
- Central Organization of Finnish Trade Unions (SAK); Finnish Confederation of Professionals (STTK)
- Commission for Local Authority Employers (KT)
- Confederation of Finnish Industries (EK)
- Federation of Finnish Enterprises (SY)
- Finnish Confederation of Professionals (STTK)

on Conventions Nos

115, 136, 139, 155, 161, 162, 187
173, 175
81, 100, 111, 121, 128, 150, 168, 184
119, 120, 148, 167, 176
100, 132
100
100, 111
14, 132, 136, 139, 161, 162, 173,
175, 187

France

- French Confederation of Management – General Confederation of Professional and Managerial Employees (CFE-CGC)
- General Confederation of Labour - Force ouvrière (CGT-FO)
- National Federation of Agricultural Holders' Unions (FNSEA)

on Conventions Nos

100, 102, 111, 187
17, 100, 115, 148
12

France (French Southern and Antarctic Territories)

- General Confederation of Labour - Force ouvrière (CGT-FO)

on Convention No.

111

France (New Caledonia)

- General Confederation of Labour - Force ouvrière (CGT-FO)

on Conventions Nos

81, 129

Gambia

- International Trade Union Confederation (ITUC)

on Conventions Nos

87, 98

Georgia

- Georgian Trade Unions Confederation (GTUC)

on Conventions Nos

138, 182

Germany

- Confederation of German Employers' Associations (BDA)

on Convention No.

29

Ghana

- International Trade Union Confederation (ITUC)

on Convention No.

182

Greece

- Federation of Associations of the Ministry of Labour (OSYPE)
- Greek General Confederation of Labour (GSEE)
- Greek Primary Teachers' Federation (DOE) ; Federation of Private School Teachers of Greece (OIELE)
- Hellenic Federation of Enterprises and Industries (SEV)

on Conventions Nos

81
29, 77, 78, 81, 90, 105, 124, 138, 182
87, 151
87, 98, 144

Guatemala

- Autonomous Popular Trade Union Movement; Global Unions of Guatemala
- Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87
138, 182
87

Haiti

- Confederation of Public and Private Sector Workers (CTSP); Confederation of Haitian Workers (CTH)
- International Trade Union Confederation (ITUC)

on Conventions Nos

1, 14, 30, 45, 81, 87, 90, 98, 105, 106, 107
87, 98

Honduras

- Honduran National Business Council (COHEP)

on Conventions Nos

29, 78, 105, 138, 182

Hungary

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

98
98

India

- Centre of Indian Trade Unions (CITU)
- Hind Mazdoor Sabha (HMS)
- International Trade Union Confederation (ITUC)

on Conventions Nos

81, 144
144
81

Iraq

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

98
98

Italy

- Italian General Confederation of Labour (CGIL); Italian Confederation of Workers' Trade Unions (CISL); Italian Union of Labour (UIL)

on Conventions Nos

29, 79, 90, 111, 138, 183

Jamaica

- International Trade Union Confederation (ITUC)
- Jamaica Confederation of Trade Unions (JCTU)
- Jamaica Employers Federation (JEF)

on Conventions Nos

87
11, 81, 87, 98, 144
11, 81, 87, 98, 144

Japan

- Apaken Kobe (Casual/Temporary/Part-time Non-regular Workers' Union); Rentai Workers' Union, Itabashi-ku Section; Union Rakuda (Kyoto Municipality Related Workers' Independent Union); Rentai Union Sugunami
- Japan Business Federation (NIPPON KEIDANREN)
- Japanese Trade Union Confederation (JTUC-RENGO)
- Labour Union of Migrant Workers (LUM)

on Conventions Nos

122
29
29, 138, 182
29

Jordan

- International Trade Union Confederation (ITUC)

on Convention No.

98

Kazakhstan

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- Trade Union of Workers in the Fuel and Energy Complex

on Conventions Nos

87
81, 87, 129
29, 81, 87, 105, 129, 138, 182

Kyrgyzstan

- Kyrgyzstan Federation of Trade Unions (FPK)

on Conventions Nos

29, 79, 90, 105, 124, 138, 182

Latvia

- Free Trade Union Confederation of Latvia (FTUCL)

on Conventions Nos

111, 183

Lebanon

- International Trade Union Confederation (ITUC); International Domestic Workers Federation (IDWF)

on Convention No.

29

Liberia

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87
87

Madagascar

- Christian Confederation of Malagasy Trade Unions (SEKRIMA)
- General Confederation of Workers' Unions of Madagascar (FISEMA)
- Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE)
- Trade unionism and life of societies (SVS); Independent Trade Unions of Madagascar (USAM)

on Conventions Nos

13, 127, 144
12, 13, 14, 19, 26, 81, 87, 88, 95, 117,
118, 119, 120, 122, 127, 129, 132, 144,
159, 171, 173
13, 14, 26, 81, 95, 97, 100, 111, 117,
119, 120, 122, 129, 132, 143, 144, 171,
189
87, 98

Malawi

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)

on Conventions Nos

111
111
111, 184

Malaysia

- International Trade Union Confederation (ITUC)
- National Union of Bank Employees (NUBE)

on Conventions Nos

98
98

Maldives

- Maldives Trade Union Congress (MTUC)
- Tourism Employees Association of Maldives (TEAM)

on Conventions Nos

111
87, 98

Mali

- Confederation of Workers' Union of Mali (CSTM)
- National Council of Employers of Mali (CNPM)

on Conventions Nos

29, 105, 138, 182
29

Mexico

- Authentic Workers' Confederation of the Republic of Mexico (CAT)
- Confederation of Workers of Mexico (CTM)
- National Union of Men and Women Domestic Workers (SINACTRAHO)

on Conventions Nos

22, 27, 29, 55, 56, 58, 105, 108, 134,
138, 152, 163, 164, 166, 182, 189
22, 27, 29, 55, 56, 58, 105, 108, 134,
138, 152, 163, 164, 166, 182, 189
189

Myanmar

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87
87

Netherlands

- Nautilus International
- Netherlands Trade Union Confederation (FNV); National Federation of Christian Trade Unions (CNV)
- Netherlands Trade Union Confederation (FNV); National Federation of Christian Trade Unions (CNV); Trade Union Federation for Professionals (VCP)
- Netherlands Trade Union Confederation (FNV); Nautilus International
- Royal Association of Netherlands Shipowners (KVNR)

on Conventions Nos

MLC, 2006
29, 105, 111, 156, 183
121
MLC, 2006
MLC, 2006

Netherlands (Sint Maarten)

- Employer Council Sint Maarten (ECSM)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87, 88, 144
87

New Zealand

- Business New Zealand
- Business New Zealand; International Organisation of Employers (IOE)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- New Zealand Council of Trade Unions (NZCTU)

on Conventions Nos

29, 98, 105, 182
98, 144
98
98
32

Nicaragua

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87
87

Niger

- International Trade Union Confederation (ITUC)

on Convention No.

29

Nigeria

- International Trade Union Confederation (ITUC)

on Conventions Nos

26, 95

Norway

- Norwegian Confederation of Trade Unions (LO)

on Conventions Nos

27, 71, 137, 152, MLC, 2006

Panama

- National Confederation of United Independent Unions (CONUSI)
- National Council of Organized Workers (CONATO)

on Conventions Nos

87, 98, 144
11, 87, 98, 122, 144

Paraguay

- Central Confederation of Workers Authentic (CUT-A)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87, 98, 122
87, 98

Peru

- Autonomous Workers' Confederation of Peru (CATP)
- Coordination of Trade Union Federations of Peru
- International Trade Union Confederation (ITUC)
- National Confederation of Private Business' Institutions (CONFIEP)

on Conventions Nos

87, 98
11, 87, 98, 122, 144, 151
87, 98
87, 98, 122, 144

Philippines

- International Trade Union Confederation (ITUC)

on Convention No.

87

Poland

- All-Poland Trade Unions Alliance (OPZZ)
- Independent and Self-Governing Trade Union "Solidarnosc"
- International Trade Union Confederation (ITUC)

on Conventions Nos

87
11, 87, 98, 122, 135, 144, 151
87, 98

Portugal

- Confederation of Portuguese Business (CIP)
- General Workers' Union (UGT)

on Conventions Nos

98
11, 87, 98, 122, 135, 144, 151

Republic of Korea

- Federation of Korean Trade Unions (FKTU)
- Korean Confederation of Trade Unions (KCTU)

on Conventions Nos

138, 182
111, 138, 156, 182

Republic of Moldova

- National Confederation of Trade Unions of Moldova (CNSM)

on Conventions Nos

29, 105

Romania

- International Trade Union Confederation (ITUC)

on Convention No.

98

Russian Federation

- Confederation of Labour of Russia (KTR)

on Conventions Nos

87, 98, 111, 135, 144, 154, 156

Senegal

- National Confederation of Workers of Senegal (CNTS)
- National Federation of Independent Trade Unions of Senegal (UNSAS)

on Conventions Nos

87, 98, 144

87, 98, 144

Serbia

- Confederation of Autonomous Trade Unions of Serbia (CATUS)
- Serbian Association of Employers (SAE)

on Conventions Nos

87, 98, 111, 122, 135, 144, 156

11, 98, 100, 111, 122, 144, 156

Seychelles

- Association of Seychelles Employers; Seychelles Chamber of Commerce and Industry (SCCI)

on Conventions Nos

87, 98, 144, 151

Solomon Islands

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- Solomon Islands Public Employees' Union (SIPEU)

on Conventions Nos

182

182

98

South Africa

- International Trade Union Confederation (ITUC)

on Conventions Nos

87, 98

Spain

- Federation of Industry, Construction and Agriculture of the General Union of Workers (UGT FICA)
- General Union of Workers (UGT)
- Spanish Confederation of Employers' Organizations (CEOE); Spanish Confederation of Small and Medium-Sized Enterprises (CEPYME)
- Trade Union Confederation of Workers' Commissions (CCOO)

on Conventions Nos

11, 141

87, 98, 135, 144, 151, 154

11, 87, 98, 122, 135, 141, 144, 151, 154

11, 87, 98, 122, 141, 144, 151, 154

Sweden

- Swedish Trade Union Confederation (LO)

on Conventions Nos

111, 156

Switzerland

- Swiss Federation of Trade Unions (USS/SGB)

on Conventions Nos

87, 98

Thailand

- Employers Confederation of Thailand (ECOT)

on Convention No.

88

Togo

- National Union of Independent Unions of Togo (UNSI); Synergy of Workers of Togo (STT)

on Conventions Nos

87, 98

Tunisia

- International Trade Union Confederation (ITUC)

on Conventions Nos

87, 98

Türkiye

- Confederation of Progressive Trade Unions of Turkey (DISK)
- Confederation of Public Employees' Trade Unions (KESK)
- International Trade Union Confederation (ITUC)
- Turkish Confederation of Employers' Associations (TISK)

on Conventions Nos

29, 87, 98, 158

87, 98, 144, 159

87, 98

87, 88, 96, 98, 142, 144, 158, 159

Turkmenistan

- International Trade Union Confederation (ITUC)

on Conventions Nos

87, 105

Ukraine

- Federation of Trade Unions of Ukraine (FPU); Confederation of Free Trade Unions of Ukraine (KVPU)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87, 95, 98, 122, 132, 135, 155, 158
87

United Kingdom of Great Britain and Northern Ireland

- Trades Union Congress (TUC)

on Conventions Nos

2, 87, 98, 111, 122, 140, 142, 144

Uruguay

- International Organisation of Employers (IOE); Chamber of Commerce and Services of Uruguay (CCSUY); Chamber of Industries of Uruguay (CIU)
- Inter-Union Assembly of Workers - Workers' National Convention (PIT-CNT)

on Conventions Nos

98
87, 98, 144, 190

Uzbekistan

- Federation of Trade Unions of Uzbekistan (FPU)
- International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)

on Conventions Nos

87, 98, 144
87

Venezuela (Bolivarian Republic of)

- Bolivarian Socialist Confederation of Men and Women Workers in Urban and Rural Areas and Fishing of Venezuela (CBST-CCP)
- Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS)
- Independent Trade Union Alliance Confederation of Workers (CTASI); Confederation of Workers of Venezuela (CTV); Federation of University Teachers' Associations of Venezuela (FAPUV)
- National Union of State and Public Service Workers (UNETE)
- United Federation of Workers of Venezuela (CUTV)

on Conventions Nos

26, 87, 117, 140, 144
26, 87, 88, 122, 144, 155, 158
26, 87, 88, 95, 98, 117, 122, 144, 155, 158
26, 87, 98, 117, 144
98

Zimbabwe

- International Trade Union Confederation (ITUC)
- Zimbabwe Congress of Trade Unions (ZCTU)

on Conventions Nos

87, 98
87, 98, 111, 140, 144, 159

Appendix IV. Summary of information supplied by governments with regard to the obligation to submit the instruments adopted by the International Labour Conference to the competent authorities

Article 19 of the Constitution of the International Labour Organization prescribes, in paragraphs 5, 6 and 7 that Members shall bring the Conventions, Recommendations and Protocols adopted by the International Labour Conference before the competent authorities within a specific time period. Under the same provisions, the governments of Member States shall inform the Director-General of the International Labour Office of the measures taken to submit the instruments to the competent authorities, and also communicate particulars of the authority or authorities.

In accordance with article 23 of the Constitution, a summary of the information communicated by Member States in accordance with article 19 is submitted to the Conference.

At its 276th Session (November 1996), the Governing Body approved new measures to rationalize and simplify proceedings. As a result, the summarized information is presented in an appendix to the report of the Committee of Experts on the Application of Conventions and Recommendations.

The following summary contains the most recent information on the submission to the competent authorities of the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted at the 103rd Session of the Conference (June 2014), the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted at the 104th Session of the Conference (June 2015), the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session (June 2017), and the Violence and Harassment at Work Convention (No. 190), and Recommendation (No. 206), 2019, adopted at the 108th Session of the Conference.

The summarized information includes communications that were forwarded to the Director-General of the International Labour Office after the closure of the 109th Session of the Conference (June 2021) and which could not therefore be laid before the Conference at that session.

Benin. The Government submitted the Violence and Harassment Convention, 2019 (No. 190) and the Violence and Harassment Recommendation, (No. 206), 2019 to the National Congress on 7 December 2020.

Bulgaria. The Government submitted the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), to the National Congress on 4 April 2016.

Burkina Faso. The Government submitted the Violence and Harassment Convention, 2019 (No. 190), the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), and the Violence and Harassment Recommendation, 2019 (No. 206) to the National Assembly on 7 July 2022.

Cambodia. The Government submitted the Protocol of 2014 to the Forced Labour Convention, 1930, the Violence and Harassment Convention, 2019 (No. 190), the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), and the Violence and Harassment Recommendation, 2019 (No. 206) to the Parliament on 4 October 2021.

China. The Government submitted the Violence and Harassment Convention, 2019 (No. 190) and the Violence and Harassment Recommendation, (No. 206), 2019 to the State Council on 19 January 2021.

Croatia. The Government submitted the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), to the Parliament on 17 March 2022.

Egypt. The Government submitted the Violence and Harassment Convention, 2019 (No. 190) and the Violence and Harassment Recommendation, (No. 206), 2019 to the House of Representatives (Maglis El Nouwab) on 28 June 2022.

Eswatini. The Government submitted the 2014 Protocol to the Forced Labour Convention, 1930, the Violence and Harassment Convention, 2019 (No. 190), the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), and the Violence and Harassment Recommendation, 2019 (No. 206) to the Parliament (to the Senate on 23 May 2022 and to the House of Assembly on 25 May 2022).

Ireland. The Government submitted the Violence and Harassment Convention, 2019 (No. 190) and the Violence and Harassment Recommendation, (No. 206), 2019 to the Parliament (the Dáil Éireann) on 20 July 2022.

Lesotho. The Government submitted the Violence and Harassment Convention, 2019 (No. 190), the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), and the Violence and Harassment Recommendation, 2019 (No. 206) to the Parliament (to the Senate on 30 May 2022 and to the National Assembly on 31 May 2022).

Qatar. The Government submitted the Violence and Harassment Convention, 2019 (No. 190) and the Violence and Harassment Recommendation, (No. 206), 2019 to the Council of Ministers on 22 January 2020 and to the Consultative Council (Majlis Al-Shoura) on 16 February 2020.

Senegal. The Government submitted the Violence and Harassment Convention, 2019 (No. 190) and the Violence and Harassment Recommendation, (No. 206), 2019 to the Parliament on 22 June 2021.

Sri Lanka. The Government submitted the Violence and Harassment Convention, 2019 (No. 190) and the Violence and Harassment Recommendation, (No. 206), 2019 to the Parliament on 4 May 2021.

Appendix V. Information supplied by governments with regard to the obligation to submit Conventions and Recommendations to the competent authorities (31st to 110th Sessions of the International Labour Conference, 1948–2022)

Note. The number of the Convention or Recommendation is given in parentheses, preceded by the letter "C" or "R" as the case may be, when only some of the texts adopted at any one session have been submitted. The Protocols are indicated by the letter "P" followed by the number of the corresponding Convention. When the ratification of a Convention was registered, that Convention and the corresponding Recommendation are considered as submitted.

Account has been taken of the date of admission or readmission of Member States to the ILO for determining the sessions of the Conference whose texts are taken into consideration.

The Conference did not adopt any Conventions or Recommendations at its 57th Session (June 1972), 73rd Session (June 1987), 93rd Session (June 2005), 97th Session (June 2008), 98th Session (June 2009), 102nd Session (June 2013), 105th Session (June 2016), 107th Session (June 2018) and 109th Session (June 2021).

Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
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Afghanistan

31-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108
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Albania

79-81, 82 (R183, C176), 83, 84 (R186, C178, P147), 85, 87, 88, 90 (P155), 91, 94, 95 (R197, C187), 108 (C190)	78, 82 (P081), 84 (R185, R187, C179, C180), 86, 89, 90 (R193, R194), 92, 95 (R198), 96, 99-101, 103, 104, 106, 108 (R206)
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Algeria

47-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108
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Angola

61-72, 74-78, 79 (C173), 80, 81, 82 (R183, C176), 83-85, 87-90, 96	79 (R180), 82 (P081), 86, 91, 92, 94, 95, 99-101, 103, 104, 106, 108
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Antigua and Barbuda

68-72, 74-82, 83 (C177), 84, 85 (C181), 87, 88 (C183), 89 (C184), 90 (P155), 91, 94, 95 (C187), 96 (C188), 100, 103 (P029), 108 (C190)	83 (R184), 85 (R188), 86, 88 (R191), 89 (R192), 90 (R193, R194), 92, 95 (R197, R198), 96 (R199), 99, 101, 103 (R203), 104, 106, 108 (R206)
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Argentina

31-56, 58-72, 74-90, 92, 94-96, 99-101, 103, 108 (C190)	91, 104, 106, 108 (R206)
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Armenia

80-92, 94-96, 99-101, 103, 104, 106, 108	
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Australia

31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
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Austria

31-56, 58-72, 74-92, 94-96, 99, 101, 103	100, 104, 106, 108
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	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Azerbaijan	79-92, 94-96, 99-101, 103, 104, 106, 108	
Bahamas	61-72, 74-84, 87, 91, 94, 108 (C190)	85, 86, 88-90, 92, 95, 96, 99-101, 103, 104, 106, 108 (R206)
Bahrain	63-72, 74-87	88-92, 94-96, 99-101, 103, 104, 106, 108
Bangladesh	58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
Barbados	51-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Belarus	37-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
Belgium	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Belize	68-72, 74-76, 84, 87, 88, 94	77-83, 85, 86, 89-92, 95, 96, 99-101, 103, 104, 106, 108
Benin	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Bolivia (Plurinational State of)	31-56, 58-72, 74-79, 80 (C174), 81 (C175), 82 (C176), 83 (C177), 84 (C178, C179, C180), 85 (C181), 87, 88 (C183), 89 (C184), 91, 100	80 (R181), 81 (R182), 82 (R183, P081), 83 (R184), 84 (R185, R186, R187, P147), 85 (R188), 86, 88 (R191), 89 (R192), 90, 92, 94-96, 99, 101, 103, 104, 106, 108
Bosnia and Herzegovina	80-92, 94-96, 99-101, 103, 104, 106	108
Botswana	64-72, 74-92, 94-96, 99, 100	101, 103, 104, 106, 108
Brazil	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
Brunei Darussalam		96, 99-101, 103, 104, 106, 108

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Bulgaria	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
Burkina Faso	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Burundi	47-56, 58-72, 74-92, 95, 96, 99-101, 103, 104, 106	94, 108
Cabo Verde	65-72, 74-92, 94-96, 99-101, 103, 104, 106	108
Cambodia	53-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Cameroon	44-56, 58-72, 74-92, 94-96, 101, 108	99, 100, 103, 104, 106
Canada	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Central African Republic	45-56, 58-72, 74-92, 94-96, 108 (C190)	99-101, 103, 104, 106, 108 (R206)
Chad	45-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106, 108
Chile	31-56, 58-72, 74-82, 84 (C178, C179, C180, P147), 87, 94, 95 (R197, C187), 100, 103 (P029), 108	83, 84 (R185, R186, R187), 85, 86, 88-92, 95 (R198), 96, 99, 101, 103 (R203), 104, 106
China	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Colombia	31-56, 58-72, 74-92, 94-96, 99-101, 103, 108	104, 106
Comoros	65-72, 74-78, 87, 103 (P029)	79-86, 88-92, 94-96, 99-101, 103 (R203), 104, 106, 108

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Congo	45-53, 54 (C131, C132), 55, 56, 58 (R146, C138), 59, 60 (R150, C142), 61, 62, 63 (R157, C148, C149), 64-66, 67 (C154, C155, C156), 68 (C158), 71 (C160, C161), 74, 75 (C167, C168), 76, 84, 87, 91, 94, 96	54 (R135, R136), 58 (R145, C137), 60 (R149, R151, C141, C143), 63 (R156), 67 (R163, R164, R165), 68 (R166, C157, P110), 69, 70, 71 (R170, R171), 72, 75 (R175, R176), 77-83, 85, 86, 88-90, 92, 95, 99-101, 103, 104, 106, 108
Cook Islands	104, 106, 108	
Costa Rica	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Côte d'Ivoire	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
Croatia	80-85, 87, 91, 94, 106, 108	86, 88-90, 92, 95, 96, 99-101, 103, 104
Cuba	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Cyprus	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
Czechia	80-92, 94-96, 99-101, 103, 104, 106, 108	
Democratic Republic of the Congo	45-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106, 108
Denmark	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Djibouti	64-72, 74-92, 94-96, 99-101, 103, 104	106, 108
Dominica	68-72, 74-79, 87, 100 (C189)	80-86, 88-92, 94-96, 99, 100 (R201), 101, 103, 104, 106, 108
Dominican Republic	31-56, 58-72, 74-92, 94, 95, 99, 100	96, 101, 103, 104, 106, 108

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Ecuador	31-56, 58-72, 74-92, 94-96, 99-101, 103 (P029), 104, 108 (C190)	103 (R203), 106, 108 (R206)
Egypt	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
El Salvador	31-56, 58-61, 63 (C148, C149), 64, 67 (R164, R165, C154, C155, C156), 69 (R168, C159), 71, 72, 74-81, 87, 88 (C183), 90 (P155), 108 (C190)	62, 63 (R156, R157), 65, 66, 67 (R163), 68, 69 (R167), 70, 82-86, 88 (R191), 89, 90 (R193, R194), 91, 92, 94-96, 99-101, 103, 104, 106, 108 (R206)
Equatorial Guinea	67-72, 74-79, 84, 87	80-83, 85, 86, 88-92, 94-96, 99-101, 103, 104, 106, 108
Eritrea	80-92, 94-96, 99-101	103, 104, 106, 108
Estonia	79-92, 94-96, 99-101, 103, 104, 106, 108	
Eswatini	60-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Ethiopia	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
Fiji	59-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Finland	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
France	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Gabon	45-56, 58-72, 74-81, 82 (C176), 83 (C177), 84, 85 (C181), 87, 89 (C184), 91, 94	82 (R183, P081), 83 (R184), 85 (R188), 86, 88, 89 (R192), 90, 92, 95, 96, 99-101, 103, 104, 106, 108
Gambia	82-92, 94-96	99-101, 103, 104, 106, 108

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Georgia	80-92, 94-96, 99-101	103, 104, 106, 108
Germany	34-56, 58-72, 74-76, 77 (R177, C170), 78-92, 94-96, 99-101, 103, 104, 106, 108	77 (R178, C171, P089)
Ghana	40-56, 58-72, 74-92, 94-96, 99-101, 104	103, 106, 108
Greece	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Grenada	66-72, 74-92, 94, 95, 100 (C189)	96, 99, 100 (R201), 101, 103, 104, 106, 108
Guatemala	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Guinea	43-56, 58-72, 74-83, 87, 95 (R197, C187), 100	84-86, 88-92, 94, 95 (R198), 96, 99, 101, 103, 104, 106, 108
Guinea - Bissau	63-72, 74-88, 94, 106	89-92, 95, 96, 99-101, 103, 104, 108
Guyana	50-56, 58-72, 74-92, 94, 95, 100	96, 99, 101, 103, 104, 106, 108
Haiti	31-56, 58-66, 67 (R165, C156), 69-72, 74, 75 (C167), 87	67 (R163, R164, C154, C155), 68, 75 (R175, R176, C168), 76-86, 88-92, 94-96, 99-101, 103, 104, 106, 108
Honduras	38-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
Hungary	31-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106, 108
Iceland	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
India	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Indonesia	33-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Iran (Islamic Republic of)	31-56, 58-72, 74-92, 94-96, 100, 101, 103, 104, 106, 108	99
Iraq	31-56, 58-72, 74-87, 88 (C183), 89, 90 (P155), 91, 94, 95 (R197, C187), 96 (C188), 100 (C189)	88 (R191), 90 (R193, R194), 92, 95 (R198), 96 (R199), 99, 100 (R201), 101, 103, 104, 106, 108
Ireland	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Israel	32-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Italy	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Jamaica	47-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
Japan	35-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Jordan	39-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108
Kazakhstan	81 (C175), 82 (R183, C176), 87, 88, 91	80, 81 (R182), 82 (P081), 83-86, 89, 90, 92, 94-96, 99-101, 103, 104, 106, 108
Kenya	48-56, 58-72, 74-92, 94-96, 99-101	103, 104, 106, 108
Kiribati	88-92, 94-96, 99-101, 103, 104, 106, 108	
Kuwait	45-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108
Kyrgyzstan	87, 89, 103 (P029)	79-86, 88, 90-92, 94-96, 99-101, 103 (R203), 104, 106, 108

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Lao People's Democratic Republic		
	48-56, 58-72, 74-81, 82 (R183, C176), 83-92, 94-96, 99, 100, 103	82 (P081), 101, 104, 106, 108
Latvia		
	79-92, 94-96, 99-101, 103, 104, 106, 108	
Lebanon		
	32-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106, 108
Lesotho		
	66-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Liberia		
	31-56, 58-72, 74-76, 77 (R177, R178, C170, C171), 78-81, 82 (R183, C176), 83-87, 91, 94	77 (P089), 82 (P081), 88-90, 92, 95, 96, 99-101, 103, 104, 106, 108
Libya		
	35-56, 58-72, 74-82, 87	83-86, 88-92, 94-96, 99-101, 103, 104, 106, 108
Lithuania		
	79-92, 94-96, 99-101, 103, 104, 106	108
Luxembourg		
	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Madagascar		
	45-56, 58-72, 74-91, 94-96, 100, 103 (P029)	92, 99, 101, 103 (R203), 104, 106, 108
Malawi		
	49-56, 58-72, 74-92, 94-96, 103 (P029)	99-101, 103 (R203), 104, 106, 108
Malaysia		
	41-56, 58-72, 74-92, 94, 95 (R197, C187), 103 (P029)	95 (R198), 96, 99-101, 103 (R203), 104, 106, 108
Maldives		
		99-101, 103, 104, 106, 108
Mali		
	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
Malta		
	49-56, 58-72, 74-92, 94, 95, 100 (C189), 103 (P029)	96, 99, 100 (R201), 101, 103 (R203), 104, 106, 108
Marshall Islands		
		99-101, 103, 104, 106, 108

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Mauritania	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Mauritius	53-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Mexico	31-56, 58-72, 74-92, 94, 95 (R198), 99, 100 (C189), 101, 106, 108 (C190)	95 (R197, C187), 96, 100 (R201), 103, 104, 108 (R206)
Mongolia	52-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Montenegro	96, 99-101, 103, 104, 106, 108	
Morocco	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Mozambique	61-72, 74-82, 87, 94, 103 (P029), 104, 106	83-86, 88-92, 95, 96, 99-101, 103 (R203), 108
Myanmar	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Namibia	65-72, 74-92, 94-96, 99-101, 103 (P029), 104, 106, 108 (C190)	103 (R203), 108 (R206)
Nepal	51-56, 58-72, 74-92, 94-96, 99-101	103, 104, 106, 108
Netherlands	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
New Zealand	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Nicaragua	40-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108
Niger	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Nigeria	45-56, 58-72, 74-92, 94, 95, 100, 104, 108 (C190)	96, 99, 101, 103, 106, 108 (R206)
North Macedonia	80-83, 85, 87, 88, 95 (R197, C187)	84, 86, 89-92, 94, 95 (R198), 96, 99-101, 103, 104, 106, 108
Norway	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
Oman	81-92, 94, 95 (R197, R198), 99	95 (C187), 96, 100, 101, 103, 104, 106, 108
Pakistan	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Palau		101, 103, 104, 106, 108
Panama	31-56, 58-72, 74-88, 89 (R192), 90 (R193, R194), 92, 94, 95 (R197, R198), 96 (R199), 99-101, 103, 104, 106, 108 (C190)	89 (C184), 90 (P155), 91, 95 (C187), 96 (C188), 108 (R206)
Papua New Guinea	61-72, 74-87	88-92, 94-96, 99-101, 103, 104, 106, 108
Paraguay	40-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
Peru	31-56, 58-72, 74-92, 94-96, 99-101, 103 (P029), 108 (C190)	103 (R203), 104, 106, 108 (R206)
Philippines	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Poland	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Portugal	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Qatar	58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Republic of Korea	79-92, 94-96, 99-101, 103, 104, 106, 108	
Republic of Moldova	79-91, 95 (R197, C187), 104	92, 94, 95 (R198), 96, 99-101, 103, 106, 108
Romania	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
Russian Federation	37-56, 58-72, 74-88, 91, 94, 95 (R197, C187), 103, 104	89, 90, 92, 95 (R198), 96, 99-101, 106, 108
Rwanda	47-56, 58-72, 74-79, 81, 85, 87, 95 (R197, C187)	80, 82-84, 86, 88-92, 94, 95 (R198), 96, 99-101, 103, 104, 106, 108
Saint Kitts and Nevis	84, 87, 94	83, 85, 86, 88-92, 95, 96, 99-101, 103, 104, 106, 108
Saint Lucia	67 (R163, C154, C155), 68 (R166, C158), 87, 90 (P155)	66, 67 (R164, R165, C156), 68 (C157, P110), 69-72, 74-86, 88, 89, 90 (R193, R194), 91, 92, 94-96, 99-101, 103, 104, 106, 108
Saint Vincent and the Grenadines	84, 86, 87, 94	82, 83, 85, 88-92, 95, 96, 99-101, 103, 104, 106, 108
Samoa	94-96, 99-101, 103, 104, 106	108
San Marino	68-72, 74-92, 94-96, 99-101, 108 (C190)	103, 104, 106, 108 (R206)
Sao Tome and Principe	68-72, 74-92, 94-96, 99-101	103, 104, 106, 108
Saudi Arabia	61-72, 74-92, 94-96, 99-101, 103 (P029)	103 (R203), 104, 106, 108
Senegal	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Serbia	89-92, 94-96, 99-101, 103, 104, 106, 108	

Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Seychelles	
63-72, 74-88, 94	89-92, 95, 96, 99-101, 103, 104, 106, 108
Sierra Leone	
45-56, 58-61, 62 (R153, R155, C145, C147), 64 (C150), 67 (C155), 71 (C160), 85 (C181), 94, 95 (C187), 100 (C189), 103 (P029)	62 (R154, C146), 63, 64 (R158, R159, C151), 65, 66, 67 (R163, R164, R165, C154, C156), 68-70, 71 (R170, R171, C161), 72, 74-84, 85 (R188), 86-92, 95 (R197, R198), 96, 99, 100 (R201), 101, 103 (R203), 104, 106, 108
Singapore	
50-56, 58-72, 74-92, 94-96, 99-101, 104	103, 106, 108
Slovakia	
80-92, 94-96, 99-101, 103, 104, 106, 108	
Slovenia	
79-92, 94-96, 99-101, 103, 104, 106, 108	
Solomon Islands	
74, 87	70-72, 75-86, 88-92, 94-96, 99-101, 103, 104, 106, 108
Somalia	
45-56, 58-72, 74, 75, 85 (C181), 87, 95 (C187), 108 (C190)	76-84, 85 (R188), 86, 88-92, 94, 95 (R197, R198), 96, 99-101, 103, 104, 106, 108 (R206)
South Africa	
81, 82 (R183, C176), 83-92, 94-96, 99-101, 108 (C190)	103, 104, 106, 108 (R206)
South Sudan	
	101, 103, 104, 106, 108
Spain	
39-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108 (C190)	108 (R206)
Sri Lanka	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Sudan	
39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
Suriname	
61-72, 74-92, 94-96, 99-101, 103	104, 106, 108
Sweden	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Switzerland	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
Syrian Arab Republic	31-56, 58-65, 67, 68, 69 (R167, C159), 71, 72, 74-76, 77 (R177, C170), 84, 87-89, 90 (P155), 94	66, 69 (R168), 70, 77 (R178, C171, P089), 78-83, 85, 86, 90 (R193, R194), 91, 92, 95, 96, 99-101, 103, 104, 106, 108
Tajikistan	81-92, 94-96, 99-101, 103 (P029)	103 (R203), 104, 106, 108
Thailand	31-56, 58-72, 74-92, 94-96, 99, 100 (R201), 101, 103, 104	100 (C189), 106, 108
Timor-Leste	92, 94-96	99-101, 103, 104, 106, 108
Togo	44-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Tonga		106, 108
Trinidad and Tobago	47-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Tunisia	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
Türkiye	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Turkmenistan	81-92, 94-96, 99-101, 103, 104, 106	108
Tuvalu		99-101, 103, 104, 106, 108
Uganda	47-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
Ukraine	37-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108

Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
United Arab Emirates	
58-72, 74-92, 95, 96	94, 99-101, 103, 104, 106, 108
United Kingdom of Great Britain and Northern Ireland	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108 (C190)	108 (R206)
United Republic of Tanzania	
46-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
United States of America	
66-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
Uruguay	
31-56, 58-72, 74-89, 90 (R193, R194), 91, 92, 94, 95 (R197, R198), 96, 99-101, 103, 104, 106, 108	90 (P155), 95 (C187)
Uzbekistan	
80-92, 94-96, 99-101, 103, 104, 106, 108	
Vanuatu	
	91, 92, 94-96, 99-101, 103, 104, 106, 108
Venezuela (Bolivarian Republic of)	
41-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108
Viet Nam	
79-92, 94-96, 99-101, 103, 104	106, 108
Yemen	
49-56, 58-72, 74-87, 88 (C183), 89 (C184), 91, 95 (C187)	88 (R191), 89 (R192), 90, 92, 94, 95 (R197, R198), 96, 99-101, 103, 104, 106, 108
Zambia	
49-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106, 108
Zimbabwe	
66-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	

Appendix VI. Overall position of Member States with regard to the submission to the competent authorities of the instruments adopted by the Conference (as at 10 December 2022)

Sessions of the ILC	Number of States in which, according to the information supplied by the Government:			Number of ILO member States at the time of the session
	All the instruments have been submitted	Some of the instruments have been submitted	None of the instruments have been submitted	

All the instruments adopted between the 31st and the 53rd Sessions have been submitted to the competent authorities by member States

54th	(June 1970)	119	1	0	120
55th	(October 1970)	120	0	0	120
56th	(June 1971)	120	0	0	120
58th	(June 1973)	122	1	0	123
59th	(June 1974)	125	0	0	125
60th	(June 1975)	125	1	0	126
61st	(June 1976)	131	0	0	131
62nd	(October 1976)	129	1	1	131
63rd	(June 1977)	131	2	1	134
64th	(June 1978)	134	1	0	135
65th	(June 1979)	135	0	2	137
66th	(June 1980)	138	0	4	142
67th	(June 1981)	138	5	0	143
68th	(June 1982)	142	2	3	147
69th	(June 1983)	143	2	3	148
70th	(June 1984)	143	0	6	149
71st	(June 1985)	145	2	2	149
72nd	(June 1986)	145	0	4	149
74th	(October 1987)	147	0	2	149
75th	(June 1988)	144	2	3	149
76th	(June 1989)	142	0	5	147
77th	(June 1990)	137	3	7	147
78th	(June 1991)	140	0	9	149
79th	(June 1992)	145	1	10	156
80th	(June 1993)	152	1	14	167
81st	(June 1994)	157	2	12	171
82nd	(June 1995)	150	8	15	173
83rd	(June 1996)	151	3	20	174
84th	(October 1996)	156	3	15	174
85th	(June 1997)	150	5	19	174
86th	(June 1998)	146	0	28	174
87th	(June 1999)	173	0	1	174
88th	(June 2000)	147	5	23	175
89th	(June 2001)	141	5	29	175

Sessions of the ILC	Number of States in which, according to the information supplied by the Government:			Number of ILO member States at the time of the session
	All the instruments have been submitted	Some of the instruments have been submitted	None of the instruments have been submitted	
90th (June 2002)	137	8	30	175
91st (June 2003)	148	0	28	176
92nd (June 2004)	137	0	40	177
94th (February 2006)	155	0	23	178
95th (June 2006)	134	17	27	178
96th (June 2007)	131	3	44	178
99th (June 2010)	122	0	61	183
100th (June 2011)	126	7	50	183
101st (June 2012)	120	0	65	185
103rd (June 2014)	106	15	64	185
104th (June 2015)	103	0	83	186
106th (June 2017)	88	0	99	187
108th (June 2019)	67	17	103	187

Appendix VII. Comments made by the Committee, by country

The comments referred to below have been drawn up in the form of either "observations", which are reproduced in this report, or "direct requests", which are not published but are communicated directly to the governments concerned. This table also lists acknowledgements by the Committee of responses received to direct requests.

Afghanistan	General observation Observations on Conventions Nos 100, 111, 138, 182 <i>Direct requests on Conventions Nos 105, 138, 140, 141, 142, 144, 182</i> <i>Direct request on submission</i>
Albania	General observation Observations on Conventions Nos 81, 129, MLC <i>Direct requests on Conventions Nos 81, 100, 111, 122, 129, 156, 177, MLC</i> Observation on submission
Algeria	Observations on Conventions Nos 87, 100, 111 <i>Direct requests on Conventions Nos 81, 87, 100, 111, 122</i> <i>Direct request on submission</i>
Angola	Observations on Conventions Nos 100, 111 <i>Direct requests on Conventions Nos 81, 100, 107, 144</i> Observation on submission
Antigua and Barbuda	General observation Observations on Conventions Nos 100, 111, 138, 144, 151 <i>Direct requests on Conventions Nos 81, 87, 100, 111, 122, 135</i> Observation on submission
Argentina	Observations on Conventions Nos 29, 138, 182 <i>Direct requests on Conventions Nos 100, 111, 156, 169, 182, MLC</i> <i>Response received to a direct request on Convention No. 29</i> <i>Direct request on submission</i>
Armenia	Observation on Convention No. 122
Australia	Observations on Conventions Nos 29, 182 <i>Direct requests on Conventions Nos 29, 182</i>
Austria	<i>Direct requests on Conventions Nos 81, 122</i> <i>Direct request on submission</i>
Azerbaijan	Observation on Convention No. 105 <i>Direct requests on Conventions Nos 105, 122</i>
Bahamas	Observation on Convention No. 87 Observation on submission
Bahrain	Observations on Conventions Nos 81, 111 <i>Direct requests on Conventions Nos 81, 111</i> Observation on submission
Bangladesh	Observations on Conventions Nos 81, 87, 100, 107, 111 <i>Direct requests on Conventions Nos 81, 100, 107, 111, MLC</i> <i>Direct request on submission</i>
Barbados	<i>General direct request</i> Observations on Conventions Nos 87, 100, 111, 135, 182 <i>Direct requests on Conventions Nos 81, 87, 100, 105, 111, 122, 144, 182</i>
Belarus	Observations on Conventions Nos 29, 87, 105 <i>Direct requests on Conventions Nos 29, 122</i> <i>Direct request on submission</i>
Belgium	Observations on Conventions Nos 100, 111 <i>Direct requests on Conventions Nos 81, 100, 107, 111, 122, 129, 156</i>

Belize	Observations on Conventions Nos 87, 98, 115, 138, 155 <i>Direct requests on Conventions Nos 29, 140, 144, 151, 154</i> Observation on submission
Benin	Observations on Conventions Nos 143, 182 <i>Direct requests on Conventions Nos 81, 102, 143, 182</i>
Bolivia (Plurinational State of)	Observation on submission
Bosnia and Herzegovina	Observation on Convention No. 100 <i>Direct requests on Conventions Nos 81, 100, 111, 129, 156</i> <i>Direct request on submission</i>
Botswana	Observations on Conventions Nos 105, 138, 182 <i>Direct requests on Conventions Nos 29, 182</i> <i>Direct request on submission</i>
Brazil	Observations on Conventions Nos 29, 98, 100, 111, 138, 169, 182 <i>Direct requests on Conventions Nos 29, 81, 97, 98, 100, 111, 169, 182, MLC</i> <i>Direct request on submission</i>
Brunei Darussalam	Observation on submission
Bulgaria	Observations on Conventions Nos 81, 156 <i>Direct requests on Conventions Nos 81, 100, 111, 122, 156</i> <i>Direct request on submission</i>
Burkina Faso	<i>Direct requests on Conventions Nos 81, 122, 129</i>
Burundi	<i>General direct request</i> Observations on Conventions Nos 26, 111 <i>Direct request on Convention No. 111</i> <i>Direct request on submission</i>
Cabo Verde	Observations on Conventions Nos 138, 155, 182 <i>Direct requests on Conventions Nos 17, 19, 29, 81, 102, 118, 138, 144, 155, 182, MLC</i> <i>Direct request on submission</i>
Cambodia	Observations on Conventions Nos 29, 105, 138, 182 <i>Direct requests on Conventions Nos 29, 122, 138, 182</i>
Cameroon	Observations on Conventions Nos 95, 100, 111, 122, 131, 158, 162 <i>Direct requests on Conventions Nos 3, 13, 45, 81, 100, 111, 122, 131, 132, 144, 162</i> <i>Response received to direct requests on Conventions Nos. 14, 89, 106</i> <i>Direct request on submission</i>
Canada	Observations on Conventions Nos 122, 138 <i>Direct requests on Conventions Nos 29, 81, 88, 122, 138, 182</i>
Central African Republic	<i>General direct request</i> Observations on Conventions Nos 18, 81, 95, 118, 131, 155, 182 <i>Direct requests on Conventions Nos 3, 13, 14, 17, 52, 62, 81, 95, 101, 117, 118, 119, 120, 122, 142, 150, 155, 158, 182</i> Observation on submission
Chad	General observation Observations on Conventions Nos 29, 87, 111, 182 <i>Direct requests on Conventions Nos 13, 14, 29, 81, 87, 95, 100, 102, 105, 111, 122, 132, 138, 182</i> Observation on submission
Chile	Observations on Conventions Nos 24, 25, 103 <i>Direct requests on Conventions Nos 1, 13, 14, 30, 63, 115, 122, 127, 136, 140, 159, 161, 162, 187</i> Observation on submission
China	Observations on Conventions Nos 14, 111, 155, 167 <i>Direct requests on Conventions Nos 45, 111, 150, 155, 159, 167, 170</i>

Hong Kong Special Administrative Region	Observation on Convention No. 3 <i>Direct requests on Conventions Nos 3, 14, 81, 122, 148</i>
Macau Special Administrative Region	Observations on Conventions Nos 1, 14, 81, 106 <i>Direct requests on Conventions Nos 81, 88, 115, 122, 148, 155, 167</i> <i>Response received to a direct request on Convention No. 26</i>
Colombia	Observations on Conventions Nos 1, 14, 30, 52, 81, 100, 101, 106, 111, 129, 162, 167, 170, 174 <i>Direct requests on Conventions Nos 2, 13, 81, 88, 100, 111, 129, 136, 161, 162, 167, 170, 174</i> <i>Response received to direct requests on Conventions Nos. 26, 95, 99</i> <i>Direct request on submission</i>
Comoros	General observation Observations on Conventions Nos 13, 19, 26, 98, 99, 122, 138 <i>Direct requests on Conventions Nos 1, 29, 52, 81, 87, 89, 98, 100, 105, 111, 138, 182</i> Observation on submission
Congo	General observation Observations on Conventions Nos 100, 111, 138, MLC, 188 <i>Direct requests on Conventions Nos 26, 87, 95, 98, 100, 105, 111, 138, 144, 149, 185, MLC, 188</i> Observation on submission
Cook Islands	General observation <i>Direct requests on Conventions Nos 29, 105, 144, 182</i>
Costa Rica	Observations on Conventions Nos 1, 14, 29, 81, 95, 100, 106, 122, 129 <i>Direct requests on Conventions Nos 29, 45, 81, 88, 89, 94, 96, 102, 111, 117, 120, 122, 127, 129, 148, 150, 156, 159</i>
Côte d'Ivoire	Observation on Convention No. 111 <i>Direct requests on Conventions Nos 3, 13, 14, 26, 45, 81, 95, 96, 99, 100, 111, 129, 136, 150, 155, 159, 161, 170, 171, 187</i> <i>Direct request on submission</i>
Croatia	<i>General direct request</i> Observations on Conventions Nos 81, 111, 129, 155, 161, 162 <i>Direct requests on Conventions Nos 29, 45, 81, 100, 102, 111, 121, 129, 139, 148, 155, 161, 162, 182</i> Observation on submission
Cuba	Observation on Convention No. 110 <i>Direct requests on Conventions Nos 29, 63, 88, 105, 122, 138, 142, 159, 182</i> <i>Response received to a direct request on Convention No. 94</i>
Cyprus	Observations on Conventions Nos 81, 122 <i>Direct requests on Conventions Nos 81, 88, 102, 106, 121, 128, 142, 155, 158, 159, 160, 162, 170, 187</i> <i>Response received to direct requests on Conventions Nos. 95, 171</i> <i>Direct request on submission</i>
Czechia	Observation on Convention No. 132 <i>Direct requests on Conventions Nos 1, 14, 29, 88, 102, 105, 122, 128, 130, 140, 159, 171, 181, 183</i>
Democratic Republic of the Congo	Observations on Conventions Nos 29, 95, 100, 105, 111, 138, 158, 182 <i>Direct requests on Conventions Nos 14, 29, 62, 81, 88, 89, 100, 111, 119, 120, 150, 182</i> <i>Response received to a direct request on Convention No. 26</i> Observation on submission
Denmark	<i>Direct requests on Conventions Nos 29, 81, 88, 100, 111, 122, 129, 142, 150, 160</i> <i>Response received to a direct request on Convention No. 94</i>
Faroe Islands	<i>Direct requests on Conventions Nos 14, 52, 106</i>
Greenland	<i>Direct requests on Conventions Nos 111, 122</i> <i>Response received to direct requests on Conventions Nos. 14, 106</i>
Djibouti	<i>General direct request</i> Observations on Conventions Nos 19, 26, 63, 87, 98, 99, 122 <i>Direct requests on Conventions Nos 1, 13, 14, 52, 71, 81, 87, 88, 89, 100, 101, 106, 111, 115, 120, MLC</i> <i>Direct request on submission</i>

Dominica	General observation Observations on Conventions Nos 87, 94, 147 <i>Direct requests on Conventions Nos 144, 147</i> Observation on submission
Dominican Republic	Observations on Conventions Nos 122, 138, 182 <i>Direct requests on Conventions Nos 29, 88, 105, 159, 182</i> <i>Direct request on submission</i>
Ecuador	Observations on Conventions Nos 81, 87, 98, 100, 103, 111, 115, 131, 148, 162 <i>Direct requests on Conventions Nos 29, 45, 81, 87, 100, 101, 102, 105, 111, 117, 118, 119, 121, 122, 128, 130, 136, 139, 142, 148, 153, 162</i> <i>Direct request on submission</i>
Egypt	Observations on Conventions Nos 94, 100, 111 <i>Direct requests on Conventions Nos 2, 63, 88, 96, 100, 111, 159</i>
El Salvador	<i>General direct request</i> Observations on Conventions Nos 100, 111, 144, 182 <i>Direct requests on Conventions Nos 29, 100, 111, 131, 138, 150, 160, 182</i> Observation on submission
Equatorial Guinea	<i>General direct request</i> Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 1, 14, 30, 68, 92, 100</i> Observation on submission
Eritrea	Observations on Conventions Nos 29, 98, 105, 138 <i>Direct request on Convention No. 29</i> <i>Direct request on submission</i>
Estonia	<i>Direct requests on Conventions Nos 2, 29</i>
Eswatini	Observations on Conventions Nos 29, 96, 138, 182 <i>Direct requests on Conventions Nos 29, 94, 105, 138, 182</i> Observation on submission
Ethiopia	Observations on Conventions Nos 105, 138, 155, 182 <i>Direct requests on Conventions Nos 14, 29, 105, 106, 155, 158, 182, MLC</i> <i>Direct request on submission</i>
Fiji	<i>General direct request</i> Observations on Conventions Nos 105, 111 <i>Direct requests on Conventions Nos 111, 122, 142, 159</i>
Finland	Observations on Conventions Nos 81, 88, 100, 128, 129, 159 <i>Direct requests on Conventions Nos 47, 81, 94, 100, 111, 115, 119, 120, 121, 122, 128, 129, 130, 132, 136, 139, 140, 148, 150, 155, 161, 162, 167, 168, 170, 174, 175, 176, 181, 184, 187</i> <i>Response received to direct requests on Conventions Nos. 13, 14</i>
France	Observations on Conventions Nos 122, 158 <i>Direct requests on Conventions Nos 88, 122, 140, 142, 159, 181</i>
French Polynesia	<i>Direct requests on Conventions Nos 29, 82, 88, 94, 115, 122</i>
New Caledonia	<i>Response received to direct requests on Conventions Nos. 14, 89, 106</i> <i>Direct requests on Conventions Nos 82, 122, 142</i>
Gabon	General observation Observations on Conventions Nos 87, 124, 138, 182, MLC <i>Direct requests on Conventions Nos 29, 87, 98, 105, 123, 138, 144, 151, 182, MLC</i> Observation on submission
Gambia	Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 87, 98, MLC</i> Observation on submission
Georgia	<i>Direct request on Convention No. 144</i> <i>Direct request on submission</i>

Germany	<i>Direct request on submission</i>
Ghana	Observations on Conventions Nos 81, 105, 138, 182 <i>Direct requests on Conventions Nos 29, 81, 105, 149, 182, MLC</i> <i>Direct request on submission</i>
Greece	Observations on Conventions Nos 81, 154 <i>Direct requests on Conventions Nos 81, 144</i>
Grenada	General observation Observation on Convention No. 144 <i>Direct requests on Conventions Nos 100, 105, 111, 138, 182</i> Observation on submission
Guatemala	Observations on Conventions Nos 87, 105, 122, 138, 182 <i>Direct requests on Conventions Nos 29, 87, 105, 138, 144, 182</i>
Guinea	Observations on Conventions Nos 81, 87, 138, 182 <i>Direct requests on Conventions Nos 98, 138, 140, 144, 167, 182, 189</i> Observation on submission
Guinea - Bissau	Observations on Conventions Nos 26, 138, 182 <i>Direct requests on Conventions Nos 45, 81, 138, 182</i> Observation on submission
Guyana	Observations on Conventions Nos 81, 129, 138 <i>Direct requests on Conventions Nos 29, 81, 129, 140, 144, 149, 151, 172, 182, 189</i> Observation on submission
Haiti	General observation Observations on Conventions Nos 1, 14, 30, 81, 87, 98, 106 <i>Direct request on Convention No. 81</i> Observation on submission
Honduras	<i>Direct request on Convention No. 144</i> <i>Direct request on submission</i>
Hungary	Observations on Conventions Nos 81, 87, 98, 129 <i>Direct requests on Conventions Nos 81, 98, 122, 129, 135, 142, 144, 154</i> Observation on submission
Iceland	<i>Direct requests on Conventions Nos MLC, 187</i>
India	Observation on Convention No. 81 <i>Direct requests on Conventions Nos 81, 141, MLC</i>
Indonesia	Observations on Conventions Nos 81, 87, 98, 138, 182 <i>Direct requests on Conventions Nos 81, 138, 144, 182</i>
Iran (Islamic Republic of)	<i>Direct requests on Conventions Nos 29, 105</i> <i>Direct request on submission</i>
Iraq	<i>General direct request</i> Observations on Conventions Nos 29, 98, 182 <i>Direct requests on Conventions Nos 29, 105, 122, 138, 144, 172, 182</i> Observation on submission
Ireland	Observation on Convention No. 144 <i>Direct requests on Conventions Nos 29, 189</i>
Israel	<i>Direct requests on Conventions Nos 29, 105, 138, 182</i>
Italy	Observations on Conventions Nos 81, 129 <i>Direct requests on Conventions Nos 81, 129, 189</i>
Jamaica	Observations on Conventions Nos 81, 87, 98 <i>Direct requests on Conventions Nos 11, 81, 87, 189</i> <i>Direct request on submission</i>

Japan	Observation on Convention No. 81 <i>Direct request on Convention No. 81</i>
Jordan	Observations on Conventions Nos 98, 135 <i>Direct request on submission</i>
Kazakhstan	Observation on Convention No. 87 <i>Direct requests on Conventions Nos 122, 144</i> Observation on submission
Kenya	Observations on Conventions Nos 81, 105, 129, 138, 182 <i>Direct requests on Conventions Nos 81, 98, 105, 129, 138, 144, 182, MLC</i> <i>Direct request on submission</i>
Kiribati	<i>Direct requests on Conventions Nos 87, 98, MLC</i>
Kuwait	Observations on Conventions Nos 29, 105 <i>Direct requests on Conventions Nos 29, 105</i>
Kyrgyzstan	Observations on Conventions Nos 81, 95, 131 <i>Direct requests on Conventions Nos 81, 122, 124, 142, 144, 159</i> <i>Response received to direct requests on Conventions Nos. 77, 78, 79</i> Observation on submission
Lao People's Democratic Republic	<i>General direct request</i> Observations on Conventions Nos 138, 182 <i>Direct requests on Conventions Nos 29, 138, 144, 182</i> <i>Direct request on submission</i>
Latvia	<i>Direct requests on Conventions Nos 105, 108, 142, 144, MLC</i>
Lebanon	General observation Observations on Conventions Nos 17, 19, 29, 81, 98, 100, 111, 112, 113, 114, 115, 138, 182 <i>Direct requests on Conventions Nos 1, 29, 30, 52, 81, 88, 89, 95, 100, 105, 106, 111, 115, 120, 122, 127, 131, 136, 138, 139, 142, 148, 150, 152, 159, 170, 172, 174, 176, 182</i> Observation on submission
Lesotho	Observations on Conventions Nos 138, 182 <i>Direct requests on Conventions Nos 29, 105, 138, 158, 182</i>
Liberia	<i>General direct request</i> Observations on Conventions Nos 87, 105, 182 <i>Direct requests on Conventions Nos 29, 105, 108, 144, 182, MLC</i> Observation on submission
Libya	<i>General direct request</i> Observations on Conventions Nos 29, 95, 102, 103, 105, 118, 121, 128, 131, 182 <i>Direct requests on Conventions Nos 1, 14, 29, 52, 81, 89, 95, 103, 105, 182</i> Observation on submission
Lithuania	Observations on Conventions Nos 1, 47, 81 <i>Direct requests on Conventions Nos 14, 19, 81, 115, 127, 144, 160, 183</i> <i>Direct request on submission</i>
Luxembourg	<i>Direct requests on Conventions Nos 87, 102, 158, 169</i>
Madagascar	Observations on Conventions Nos 14, 26, 81, 87, 95, 98, 100, 105, 111, 119, 129, 132, 138, 182 <i>Direct requests on Conventions Nos 13, 29, 81, 100, 111, 119, 120, 127, 129, 132, 143, 151, 154, 171, 182, 185</i> <i>Direct request on submission</i>
Malawi	<i>General direct request</i> Observations on Conventions Nos 111, 138, 144, 182 <i>Direct requests on Conventions Nos 81, 111, 129, 150, 155, 182, 184, 187</i> Observation on submission

Malaysia	Observations on Conventions Nos 29, 98, 138, 182 <i>Direct requests on Conventions Nos 29, 98, 182</i>
Sarawak	Observation on submission Observation on Convention No. 94
Maldives	Observation on submission
Mali	Observations on Conventions Nos 29, 138, 182 <i>Direct requests on Conventions Nos 29, 105, 182</i> <i>Direct request on submission</i>
Malta	<i>General direct request</i> Observations on Conventions Nos 1, 81, 129 <i>Direct requests on Conventions Nos 1, 32, 62, 81, 119, 127, 129, 136, 144, 148, MLC</i> <i>Response received to direct requests on Conventions Nos. 14, 106, 132</i> Observation on submission
Marshall Islands	General observation <i>Direct requests on Conventions Nos 185, MLC</i> Observation on submission
Mauritania	Observations on Conventions Nos 29, 112, 114, 138, 182 <i>Direct requests on Conventions Nos 22, 23, 29, 58, 138, 182</i>
Mauritius	Observation on Convention No. 108 <i>Direct requests on Conventions Nos 32, 137, 160</i>
Mexico	Observation on Convention No. 144 <i>Direct requests on Conventions Nos 96, 152, 160, 172</i> <i>Direct request on submission</i>
Mongolia	<i>General direct request</i> Observations on Conventions Nos 29, 138 <i>Direct requests on Conventions Nos 29, 105</i>
Montenegro	<i>General direct request</i> <i>Direct requests on Conventions Nos 27, 29, 105, 113, 114, 126, 144, 152, 182, 185</i>
Morocco	Observations on Conventions Nos 81, 129, 138, 176, 182 <i>Direct requests on Conventions Nos 13, 45, 81, 97, 98, 119, 129, 131, 136, 138, 150, 162, 176, 182, MLC, 187, 188</i> <i>Response received to direct requests on Conventions Nos. 27, 30</i>
Mozambique	Observations on Conventions Nos 29, 105, 138, 182 <i>Direct requests on Conventions Nos 29, 105, 138, 144, 182</i> Observation on submission
Myanmar	Observations on Conventions Nos 52, 87 <i>Direct requests on Conventions Nos 1, 14, 17, 19, 42</i> <i>Response received to a direct request on Convention No. 26</i>
Namibia	Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 81, 98, 144, 150, 151, 188</i>
Nepal	Observations on Conventions Nos 29, 98, 138, 182 <i>Direct requests on Conventions Nos 29, 131, 138, 144, 182</i> <i>Response received to a direct request on Convention No. 14</i> <i>Direct request on submission</i>
Netherlands	Observations on Conventions Nos 81, 121, 129, 162, 183 <i>Direct requests on Conventions Nos 62, 81, 102, 115, 121, 128, 129, 130, 139, 144, 148, 152, 155, 162, 170, 174, 183, 188</i> <i>Response received to a direct request on Convention No. 131</i>
Aruba	<i>General direct request</i> <i>Direct requests on Conventions Nos 22, 23, 29, 69, 105, 122, 140, 144, 146, 147, 182</i>
Caribbean Part of the Netherlands	<i>Direct requests on Conventions Nos 14, 81, 101, 106</i>
Curaçao	<i>Direct requests on Conventions Nos 122, 144, MLC</i>

Sint Maarten	Observation on Convention No. 87 <i>Direct requests on Conventions Nos 14, 42, 81, 88, 94, 106, 118, 122</i> <i>Response received to a direct request on Convention No. 101</i>
New Zealand	Observations on Conventions Nos 14, 47, 160, 182 <i>Direct requests on Conventions Nos 32, 52, 81, 101, 155, MLC</i>
Nicaragua	Observations on Conventions Nos 1, 12, 17, 18, 19, 24, 25, 30, 87, 111, 136, 138, 139, 144, 182 <i>Direct requests on Conventions Nos 1, 3, 13, 29, 30, 45, 63, 88, 105, 115, 119, 127, 136, 137, 138, 139, 182, MLC</i> <i>Direct request on submission</i>
Niger	Observations on Conventions Nos 155, 161 <i>Direct requests on Conventions Nos 18, 81, 95, 102, 119, 122, 131, 144, 148, 150, 155, 161, 181, 183, 187</i> <i>Response received to a direct request on Convention No. 14</i>
Nigeria	Observations on Conventions Nos 26, 29, 88, 95, 105, 138, 144, 182 <i>Direct requests on Conventions Nos 19, 29, 32, 45, 105, 137, 138, 182, 185</i> <i>Direct request on submission</i>
North Macedonia	Observations on Conventions Nos 81, 87, 98, 129, 182 <i>Direct requests on Conventions Nos 3, 81, 106, 119, 129, 138, 139, 148, 150, 161, 182, 183</i> Observation on submission
Norway	Observation on Convention No. 102 <i>Direct requests on Conventions Nos 102, 128, 130, 168, 183</i> <i>Direct request on submission</i>
Oman	<i>Direct request on submission</i>
Pakistan	Observations on Conventions Nos 11, 87, 98, 100, 111 <i>Direct requests on Conventions Nos 87, 100, 107, 111</i>
Palau	<i>Direct request on submission</i>
Panama	Observations on Conventions Nos 87, 98, 100, 189 <i>Direct requests on Conventions Nos 100, 110, 189</i> <i>Direct request on submission</i>
Papua New Guinea	<i>General direct request</i> Observations on Conventions Nos 98, 158 <i>Direct requests on Conventions Nos 29, 87, 122</i> Observation on submission
Paraguay	Observations on Conventions Nos 87, 98, 169 <i>Direct requests on Conventions Nos 100, 111, 156, 169</i> <i>Direct request on submission</i>
Peru	Observations on Conventions Nos 87, 98, 144, 151 <i>Direct requests on Conventions Nos 11, 87, 151</i> <i>Direct request on submission</i>
Philippines	Observations on Conventions Nos 87, 98, 100, 111, 141, 151 <i>Direct requests on Conventions Nos 97, 100, 111, 143, 187</i>
Poland	Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 87, 135, 151, 188</i>
Portugal	Observations on Conventions Nos 98, 144 <i>Direct requests on Conventions Nos 87, 135, 189</i>
Qatar	Observation on Convention No. 111
Republic of Korea	Observations on Conventions Nos 81, 122 <i>Direct requests on Conventions Nos 81, 144</i>
Republic of Moldova	<i>Direct requests on Conventions Nos 92, 133, 160, 185</i> Observation on submission

Romania	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 87, 98, 111, 122</p> <p><i>Direct requests on Conventions Nos 87, 100, 111, 122, 135, 144, 154</i></p> <p><i>Response received to a direct request on Convention No. 117</i></p> <p><i>Direct request on submission</i></p>
Russian Federation	<p>Observations on Conventions Nos 81, 87, 98, 100, 111</p> <p><i>Direct requests on Conventions Nos 100, 102, 111, 135, 154, 156, 167</i></p> <p><i>Response received to a direct request on Convention No. 151</i></p>
Rwanda	<p>Observations on Conventions Nos 26, 29, 81, 87, 98, 105</p> <p><i>Direct requests on Conventions Nos 29, 81, 87, 98, 100, 111, 135, 138, 144, 150, 154, 155, 181, 182, 187</i></p> <p><i>Response received to a direct request on Convention No. 11</i></p> <p>Observation on submission</p>
Saint Kitts and Nevis	<p>Observations on Conventions Nos 29, 98, 100, 111, 138, 182</p> <p><i>Direct requests on Conventions Nos 29, 87, 100, 105, 111, 138, 182</i></p> <p>Observation on submission</p>
Saint Lucia	<p>General observation</p> <p>Observations on Conventions Nos 87, 98</p> <p><i>Direct requests on Conventions Nos 108, 158</i></p> <p>Observation on submission</p>
Saint Vincent and the Grenadines	<p>Observations on Conventions Nos 87, 98</p> <p><i>Direct requests on Conventions Nos 11, 87, 122, 144</i></p> <p>Observation on submission</p>
Samoa	<p><i>General direct request</i></p> <p><i>Direct requests on Conventions Nos 87, 98, MLC</i></p> <p><i>Direct request on submission</i></p>
San Marino	<p><i>Direct requests on Conventions Nos 98, 100, 111, 140, 143, 154, 156, 159, 161</i></p> <p><i>Direct request on submission</i></p>
Sao Tome and Principe	<p><i>General direct request</i></p> <p>Observations on Conventions Nos 98, 100, 111, 138, 151, 154</p> <p><i>Direct requests on Conventions Nos 87, 100, 111, 135, 138, 144, 182, 183</i></p> <p><i>Direct request on submission</i></p>
Saudi Arabia	<p><i>Direct requests on Conventions Nos 95, 120</i></p> <p><i>Direct request on submission</i></p>
Senegal	<p>Observation on Convention No. 87</p> <p><i>Direct request on Convention No. 98</i></p>
Serbia	<p>Observations on Conventions Nos 87, 98, 111, 135</p> <p><i>Direct requests on Conventions Nos 87, 97, 98, 100, 111, 143, 156, 184</i></p>
Seychelles	<p>Observations on Conventions Nos 87, 98</p> <p><i>Direct requests on Conventions Nos 149, 151</i></p> <p>Observation on submission</p>
Sierra Leone	<p>Observation on Convention No. 98</p> <p><i>Direct request on Convention No. 87</i></p> <p>Observation on submission</p>
Singapore	<p><i>General direct request</i></p> <p>Observation on Convention No. 100</p> <p><i>Direct requests on Conventions Nos 98, 100, 144</i></p> <p><i>Direct request on submission</i></p>
Slovakia	<p>Observations on Conventions Nos 100, 111, 156</p> <p><i>Direct requests on Conventions Nos 98, 100, 111, 156, MLC</i></p> <p><i>Response received to direct requests on Conventions Nos. 135, 151</i></p>

Slovenia	General observation Observations on Conventions Nos 98, 111, 156 <i>Direct requests on Conventions Nos 97, 98, 100, 111, 122, 143, 144, 149, 151, 154, 156</i>
Solomon Islands	Observations on Conventions Nos 98, 182 <i>Direct requests on Conventions Nos 11, 87, 182</i> Observation on submission
Somalia	General observation Observation on Convention No. 87 <i>Direct requests on Conventions Nos 29, 87, 98</i> Observation on submission
South Africa	Observations on Conventions Nos 87, 111 <i>Direct requests on Conventions Nos 98, 100, 111</i> <i>Direct request on submission</i>
South Sudan	<i>General direct request</i> <i>Direct requests on Conventions Nos 98, 100, 105, 111, 138, 182</i> <i>Direct request on submission</i>
Spain	Observation on Convention No. 135 <i>Direct requests on Conventions Nos 87, 98, 141, 151</i>
Sri Lanka	Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 11, 87, 110, 122, 135</i>
Sudan	General observation Observation on Convention No. 98 <i>Direct request on submission</i>
Suriname	Observation on Convention No. 111 <i>Direct requests on Conventions Nos 87, 98, 100, 111, 154</i> <i>Direct request on submission</i>
Sweden	Observations on Conventions Nos 87, 98 <i>Direct request on Convention No. 135</i> <i>Direct request on submission</i>
Switzerland	Observation on Convention No. 98 <i>Direct request on Convention No. 87</i>
Syrian Arab Republic	General observation Observations on Conventions Nos 29, 87, 98, 100, 105, 138, 182 <i>Direct requests on Conventions Nos 29, 100, 105, 107, 111, 144, 182</i> Observation on submission
Tajikistan	<i>General direct request</i> Observations on Conventions Nos 95, 100, 111 <i>Direct requests on Conventions Nos 32, 87, 98, 103, 105, 111, 122, 142, 144, 149, 159, 177</i> <i>Direct request on submission</i>
Thailand	<i>Direct request on Convention No. 159</i> <i>Direct request on submission</i>
Timor-Leste	General observation <i>Direct requests on Conventions Nos 87, 98, 100, 111</i> Observation on submission
Togo	Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 98, 122</i>
Tonga	<i>General direct request</i> <i>Direct request on submission</i>
Trinidad and Tobago	Observations on Conventions Nos 87, 98, 125

Tunisia	Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 185, MLC</i> <i>Direct request on submission</i>
Türkiye	Observations on Conventions Nos 87, 98, 100, 111 <i>Direct requests on Conventions Nos 87, 100, 111</i>
Turkmenistan	Observations on Conventions Nos 87, 105 <i>Direct requests on Conventions Nos 98, 105, 144</i> <i>Direct request on submission</i>
Tuvalu	General observation <i>Direct request on Convention No. MLC</i> Observation on submission
Uganda	<i>General direct request</i> Observations on Conventions Nos 26, 81, 87, 95, 98, 105, 122, 138, 144, 162, 182 <i>Direct requests on Conventions Nos 29, 81, 94, 100, 105, 111, 138, 158, 159, 182</i> <i>Direct request on submission</i>
Ukraine	<i>General direct request</i> Observations on Conventions Nos 87, 115, 122, 139, 155, 176 <i>Direct requests on Conventions Nos 98, 115, 117, 119, 120, 139, 140, 142, 144, 155, 158, 159, 161, 174, 176, 184</i> <i>Direct request on submission</i>
United Arab Emirates	Observation on submission
United Kingdom of Great Britain and Northern Ireland	Observation on Convention No. 87 <i>Direct requests on Conventions Nos 87, 98, 188</i>
Anguilla	<i>Direct requests on Conventions Nos 87, 98</i>
Bermuda	<i>Direct requests on Conventions Nos 87, 98</i>
British Virgin Islands	<i>Direct requests on Conventions Nos 82, 94, 98, MLC</i>
Falkland Islands (Malvinas)	General observation <i>Direct request on Convention No. 82</i>
Guernsey	<i>General direct request</i> <i>Direct request on Convention No. 122</i>
Isle of Man	<i>Direct request on Convention No. 98</i>
Jersey	<i>General direct request</i> Observations on Conventions Nos 87, 98 <i>Direct request on Convention No. 140</i>
Montserrat	<i>Direct requests on Conventions Nos 87, 98</i>
St Helena	Observation on Convention No. 98
United Republic of Tanzania	Observations on Conventions Nos 87, 98, 100, 111 <i>Direct requests on Conventions Nos 63, 100, 111, 137, 152, MLC</i> <i>Direct request on submission</i>
United Republic of Tanzania.Zanzibar	<i>Direct request on Convention No. 85</i>
Uruguay	Observations on Conventions Nos 87, 94, 98 <i>Direct request on Convention No. 190</i> <i>Direct request on submission</i>
Uzbekistan	Observations on Conventions Nos 98, 100 <i>Direct requests on Conventions Nos 81, 87, 100, 129, 144</i>
Vanuatu	General observation <i>Direct requests on Conventions Nos 87, 98, 182</i> Observation on submission
Venezuela (Bolivarian Republic of)	Observations on Conventions Nos 26, 87, 95, 98, 117, 122, 140, 142, 144, 155, 158 <i>Direct requests on Conventions Nos 13, 45, 120, 127, 139, 155</i> <i>Direct request on submission</i>

Viet Nam	<i>Direct requests on Conventions Nos 27, 98</i> <i>Direct request on submission</i>
Yemen	General observation Observations on Conventions Nos 87, 94, 98 <i>Direct requests on Conventions Nos 100, 111, 122, 144, 158, 159</i> Observation on submission
Zambia	Observations on Conventions Nos 87, 98 <i>Direct request on Convention No. 181</i> Observation on submission
Zimbabwe	Observations on Conventions Nos 87, 98, 100, 111 <i>Direct requests on Conventions Nos 100, 111</i>